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DEPARTMENT OF DEFENSE

Office of the Secretary

5 CFR Part 3601

[Docket ID: DoD–2021–OS–0032]

RIN 0790–AL21

Supplemental Standards of Ethical Conduct for Employees of the Department of Defense; Correction

AGENCY: Department of Defense (DoD).

ACTION: Final rule; correcting amendment.

SUMMARY: The Department of Defense is correcting a final rule that appeared in the **Federal Register** on February 28, 2023. The Department of Defense, with the concurrence of the U.S. Office of Government Ethics (OGE), finalized amendments to its Supplemental Standards of Ethical Conduct for Employees of the Department of Defense (DoD Supplemental Regulation). The amendments revised and updated the DoD Supplemental Regulation originally written in 1993, to supplement the OGE Standards of Ethical Conduct for Employees of the Executive Branch (OGE Standards). Amendments included changes in the following areas: designation of separate agency components for the purposes of gifts and teaching, speaking, and writing; additional exceptions for gifts from outside sources; additional limitations on gifts between DoD employees; and authority to waive any of the provisions of the DoD Supplemental Regulation.

DATES: This final rule correction is effective December 12, 2023 and is applicable beginning March 30, 2023.

FOR FURTHER INFORMATION CONTACT: Karen Dalheim, Standards of Conduct Office, Office of the Secretary of Defense, Office of the General Counsel; telephone: 703–695–3422.

SUPPLEMENTARY INFORMATION: Subsequent to the publication of the final rule on February 28, 2023 (88 FR 12541), it was discovered that during the final review and editing of the final rule, a comma was moved in the first sentence of § 3601.106(a) introductory text that changed the meaning of the sentence. The document corrects the CFR to reflect the intended version of this paragraph.

List of Subjects in 5 CFR Part 3601

Conflict of interests, Executive branch standards of conduct, Government employees.

Accordingly, the Department of Defense amends 5 CFR part 3601 by making the following correcting amendment:

PART 3601—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF DEFENSE

■ 1. The authority citation for part 3601 continues to read as follows:

Authority: 5 U.S.C. 301, 7301, 7351, 7353; 5 U.S.C. Chapter 131; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.203(a), 2635.204(k), 2635.803, 2635.807.

■ 2. In § 3601.106, revise the first sentence of paragraph (a) introductory text to read as follows:

§ 3601.106 Prior approval for outside employment and business activities.

(a) A DoD employee, other than a special Government employee, who is required to file a financial disclosure report (OGE Forms 450 or 278e) shall obtain approval from the agency designee before engaging in a business activity or compensated outside employment with a prohibited source, unless general approval has been given in accordance with paragraph (b) of this section. * * *

* * * * *

Dated: December 6, 2023.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–27172 Filed 12–11–23; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–1721; Project Identifier MCAI–2023–00676–T; Amendment 39–22608; AD 2023–23–06]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2023–04–13, which applied to certain Dassault Aviation Model FALCON 2000EX airplanes. AD 2023–04–13 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. This AD continues to require the actions in AD 2023–04–13 and requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations; as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 16, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 16, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of May 12, 2023 (88 FR 20741, April 7, 2023).

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–1721; 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 final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of

Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

• For material incorporated by reference in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.*

• You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *regulations.gov* under Docket No. FAA–2023–1721.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206–231–3226; email *Tom.Rodriguez@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2023–04–13, Amendment 39–22360 (88 FR 20741, April 7, 2023) (AD 2023–04–13). AD 2023–04–13 applied to certain Dassault Aviation Model FALCON 2000EX airplanes. AD 2023–04–13 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA issued AD 2023–04–13 to address reduced structural integrity of the airplane. AD 2023–04–13 specifies that accomplishing the revision required by paragraph (g) or (j) of that AD terminates the requirements of paragraph (g)(1) of AD 2010–26–05, Amendment 39–16544 (75 FR 79952, December 21, 2010), for Dassault Aviation Model FALCON 2000EX airplanes. This AD therefore continues to allow that terminating action.

The NPRM published in the **Federal Register** on August 29, 2023 (88 FR 59476). The NPRM was prompted by AD 2023–0100, dated May 11, 2023, issued by EASA, which is the Technical Agent for the Member States of the European Union (EASA AD 2023–0100) (also referred to as the MCAI). The MCAI states that new or more restrictive airworthiness limitations have been developed.

In the NPRM, the FAA proposed to continue to require the actions in AD 2023–04–13. The NPRM also proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in EASA AD 2023–0100. The FAA is issuing this AD to address reduced structural integrity of the airplane.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–1721.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

EASA AD 2023–0100 specifies new or more restrictive airworthiness limitations for airplane structures and safe life limits.

This AD also requires EASA AD 2022–0136, dated July 6, 2022, which the Director of the Federal Register approved for incorporation by reference as of May 12, 2023 (88 FR 20741, April 7, 2023).

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

Costs of Compliance

The FAA estimates that this AD affects 245 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

The FAA estimates the total cost per operator for the retained actions from AD 2023–04–13 to be $7,650 (90 work-hours × $85 per work-hour).

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. In the past, the agency has estimated that this action takes 1 work-hour per airplane. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate.

The FAA estimates the total cost per operator for the new actions to be $7,650 (90 work-hours × $85 per work-hour).

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

This AD will not have federalism implications under Executive Order 13132. This AD will 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 that this AD:

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

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

(3) Will 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 Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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:
■ a. Removing Airworthiness Directive (AD) 2023–04–13, Amendment 39–22360 (88 FR 20741, April 7, 2023); and
■ b. Adding the following new AD:

2023–23–06 Dassault Aviation: Amendment 39–22608; Docket No. FAA–2023–1721; Project Identifier MCAI–2023–00676–T.

(a) Effective Date

This airworthiness directive (AD) is effective January 16, 2024.

(b) Affected ADs

(1) This AD replaces AD 2023–04–13, Amendment 39–22360 (88 FR 20741, April 7, 2023) (AD 2023–04–13).

(2) This AD affects AD 2010–26–05, Amendment 39–16544 (75 FR 79952, December 21, 2010) (AD 2010–26–05).

(c) Applicability

This AD applies to Dassault Aviation Model FALCON 2000EX airplanes, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before January 15, 2023.

(d) Subject

Air Transport Association (ATA) of America Code: 05, Time Limits/Maintenance Checks.

(e) Unsafe Condition

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Maintenance or Inspection Program Revision, With No Changes

This paragraph restates the requirements of paragraph (j) of AD 2023–04–13, with no changes. For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before January 15, 2022, except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2022–0136, dated July 6, 2022 (EASA AD 2022–0136). Accomplishing the revision of the existing maintenance or inspection program required by paragraph (j) of this AD terminates the requirements of this paragraph.

(h) Retained Exceptions to EASA AD 2022–0136, With No Changes

This paragraph restates the exceptions specified in paragraph (k) of AD 2023–04–13, with no changes.

(1) The requirements specified in paragraphs (1) and (2) of EASA AD 2022–0136 do not apply to this AD.

(2) Paragraph (3) of EASA AD 2022–0136 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable within 90 days after May 12, 2023 (the effective date of AD 2023–04–13).

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2022–0136 is at the applicable ''limitation'' and ''associated thresholds'' as incorporated by the requirements of paragraph (3) of EASA AD 2022–0136, or within 90 days after the May 12, 2023 (the effective date of AD 2023–04–13), whichever occurs later.

(4) The provisions specified in paragraphs (4) and (5) of EASA AD 2022–0136 do not apply to this AD.

(5) The ''Remarks'' section of EASA AD 2022–0136 does not apply to this AD.

(i) Retained Provisions for Alternative Actions or Intervals, With a New Exception

This paragraph restates the requirements of paragraph (l) of AD 2023–04–13, with a new exception. Except as required by paragraph (j) of this AD, after the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2022–0136.

(j) New Maintenance or Inspection Program Revision

Except as specified in paragraph (k) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2023–0100, dated May 11, 2023 (EASA AD 2023–0100). Accomplishing the revision of the existing maintenance or inspection program required by this paragraph terminates the requirements of paragraph (g) of this AD.

(k) Exceptions to EASA AD 2023–0100

(1) This AD does not adopt the requirements specified in paragraphs (1) and (2) of EASA AD 2023–0100.

(2) Paragraph (3) of EASA AD 2023–0100 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2023–0100 is at the applicable ''limitations'' and ''associated thresholds'' as incorporated by the requirements of paragraph (3) of EASA AD 2023–0100, or within 90 days after the effective date of this AD, whichever occurs later.

(4) This AD does not adopt the provisions specified in paragraphs (4) and (5) of EASA AD 2023–0100.

(5) This AD does not adopt the ''Remarks'' section of EASA AD 2023–0100.

(l) New Provisions for Alternative Actions and Intervals

After the maintenance or inspection program has been revised as required by paragraph (j) of this AD, no alternative actions (*e.g.,* inspections), and intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2023–0100.

(m) Terminating Action for Certain Actions in AD 2010–26–05

Accomplishing the actions required by paragraph (g) or (j) of this AD terminates the requirements of paragraph (g)(1) of AD 2010–26–05, for Dassault Aviation Model FALCON 2000EX airplanes only.

(n) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* 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 responsible Flight Standards Office, as appropriate. If sending information directly to the International Validation Branch, send it to the attention of the person identified in paragraph (o) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or EASA; or Dassault Aviation's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(o) Additional Information

For more information about this AD, contact Tom Rodriguez, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206–231–3226; email *Tom.Rodriguez@faa.gov.*

(p) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) 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 this AD specifies otherwise.

(3) The following service information was approved for IBR on January 16, 2024.

(i) European Union Aviation Safety Agency (EASA) AD 2023–0100, dated May 11, 2023.

(ii) [Reserved]

(4) The following service information was approved for IBR on May 12, 2023 (88 FR 20741, April 7, 2023).

(i) European Union Aviation Safety Agency (EASA) AD 2022–0136, dated July 6, 2022.

(ii) [Reserved]

(5) For EASA ADs 2022–0136 and 2023–0100, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email: *ADs@easa.europa.eu;* website: *easa.europa.eu.* You may find these EASA ADs on the EASA website: *ad.easa.europa.eu.*

(6) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th Street, Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(7) 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 November 9, 2023.

Ross Landes,

Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2023–27117 Filed 12–11–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–1815; Project Identifier MCAI–2023–00581–T; Amendment 39–22606; AD 2023–23–04]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. This AD was prompted by stress analysis results indicating that cracks may appear in the center wing box at frame 42 and slanted junction areas. This AD requires a one-time inspection of the center wing box at frame 42 and slanted junction areas, and applicable corrective actions, if necessary, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 16, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 16, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–1815; 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 final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For material incorporated by reference in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *regulations.gov* under Docket No. FAA–2023–1815.

FOR FURTHER INFORMATION CONTACT: Tim Dowling, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206–231–3667; email: *timothy.p.dowling@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus SAS Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. The NPRM published in the **Federal Register** on September 6, 2023 (88 FR 60908). The NPRM was prompted by AD 2023–0074, dated April 5, 2023, issued by EASA, which is the Technical Agent for the Member States of the European Union (EASA AD 2023–0074) (also referred to as the MCAI). The MCAI states that stress analysis results from A321 XLR certification and fatigue and damage tolerance harmonization have revealed that cracks may appear in the center wing box at frame 42 and slanted junction areas of the affected airplanes. Cracks may appear due to the high fatigue stress in affected areas.

In the NPRM, the FAA proposed to require a one-time inspection of the center wing box at frame 42 and slanted junction areas, and applicable corrective actions, if necessary, as specified in EASA AD 2023–0074. The FAA is issuing this AD to detect potential cracks in the center wing box at frame 42 and slanted junction areas. The unsafe condition, if not addressed, could affect the structural integrity of the fuselage.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–1815.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

EASA AD 2023–0074 specifies procedures for one-time rototest and high frequency eddy current inspections for cracks of the center wing box rear lower spar junction area at frame 42; a rototest inspection for cracks of the frame 42 slanted beam connection; a detailed visual inspection of certain fasteners for damage; and applicable corrective actions. Corrective actions include obtaining and following instructions for crack repair and replacing damaged fasteners. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Interim Action

The FAA considers that this AD is an interim action. If final action is later identified, the FAA might consider further rulemaking then.

Costs of Compliance

The FAA estimates that this AD affects 657 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 25 work-hours × $85 per hour = Up to $2,125	*$0	Up to $2,125	Up to $1,396,125.

*Additional work will be required if repairs are needed. Inspection results will determine extent (time and materials) of repair costs.

The FAA has received no definitive data on which to base the cost estimates for the on-condition actions specified in this AD.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to take approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

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

This AD will not have federalism implications under Executive Order 13132. This AD will 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 that this AD:

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

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

(3) Will 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 Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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:

2023–23–04 Airbus SAS: Amendment 39–22606; Docket No. FAA–2023–1815; Project Identifier CAI–2023–00581–T.

(a) Effective Date

This airworthiness directive (AD) is effective January 16, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Unsafe Condition

This AD was prompted by stress analysis results indicating that cracks may appear in the center wing box at frame 42 and slanted junction areas. The FAA is issuing this AD to detect potential cracks in the center wing box at frame 42 and slanted junction areas. The unsafe condition, if not addressed, could affect the structural integrity of the fuselage.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2023–0074, dated April 5, 2023 (EASA AD 2023–0074).

(h) Exceptions to EASA AD 2023–0074

(1) Where EASA AD 2023–0074 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2023–0074 specifies to comply with ''the instructions of the AOT,'' this AD requires compliance with the procedures marked as required for compliance (RC) in the Alert Operators Transmission (AOT).

(3) This AD does not adopt the ''Remarks'' section of EASA AD 2023–0074.

(4) Where paragraph (3) of EASA AD 2023–0074 specifies to ''contact Airbus for approved repair instructions and, within the compliance time specified therein, accomplish those instructions accordingly,'' for this AD, if any cracking is detected, the cracking must be repaired before further flight using a method approved by the

Manager, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(5) Paragraph (4) of EASA AD 2023–0074 specifies to report inspection results to Airbus within a certain compliance time. For this AD, report inspection results at the applicable time specified in paragraph (h)(5)(i) or (ii) of this AD.

(i) If the inspection was done on or after the effective date of this AD: Submit the report within 90 days after the inspection.

(ii) If the inspection was done before the effective date of this AD: Submit the report within 90 days after the effective date of this AD.

(6) Where paragraph (2) of EASA AD 2023–0074 refers to a ferry flight, a special flight permit may be issued in accordance with 14 CFR 21.197 and 21.199 provided the operators comply with the provisions specified in paragraph (2) of EASA AD 2023–0074.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* 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 responsible Flight Standards Office, as appropriate. If sending information directly to the International Validation Branch, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraphs (h)(2) and (i)(2) of this AD, if any service information referenced in EASA AD 2023–0074 contains paragraphs that are labeled as RC, the instructions in RC paragraphs, including subparagraphs under an RC paragraph, must be done to comply with this AD; any paragraphs, including subparagraphs under those paragraphs, that are not identified as RC are recommended. The instructions in paragraphs, including subparagraphs under those paragraphs, not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the instructions identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to instructions identified as RC require approval of an AMOC.

(j) Additional Information

For more information about this AD, contact Tim Dowling, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone 206–231–3667; email: *timothy.p.dowling@faa.gov.*

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) 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 this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2023–0074, dated April 5, 2023.

(ii) [Reserved]

(3) For EASA AD 2023–0074, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this EASA AD on the EASA website at *ad.easa.europa.eu.*

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(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 November 9, 2023.

Ross Landes,

Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2023–27116 Filed 12–11–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–1881; Project Identifier MCAI–2023–00495–T; Amendment 39–22609; AD 2023–23–07]

RIN 2120–AA64

Airworthiness Directives; Deutsche Aircraft GmbH (Type Certificate Previously Held by 328 Support Services GmbH; AvCraft Aerospace GmbH; Fairchild Dornier GmbH; Dornier Luftfahrt GmbH) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Deutsche Aircraft GmbH Model 328–100 and 328–300 airplanes. This AD was prompted by a manufacturer's design review, which identified a potential risk of the rudder control rod buckling during operation with one engine inoperative during take-off and landing phases. This AD requires visually inspecting the rudder control rod, performing a one-time functional check of the rudder control rod, performing corrective actions if necessary, and reporting the inspection results, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. This AD also limits the installation of affected parts under certain conditions. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 16, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 16, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–1881; 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 final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For material incorporated by reference in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; website *easa.europa.eu*. You may find this material on the EASA website at *ad.easa.europa.eu*.
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *regulations.gov* under Docket No. FAA–2023–1881.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206–231–3228; email *todd.thompson@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR

part 39 by adding an AD that would apply to all Deutsche Aircraft GmbH (Type Certificate Previously Held by 328Support Services GmbH; AvCraft Aerospace GmbH; Fairchild Dornier GmbH; Dornier Luftfahrt GmbH) Model 328–100 and 328–300 airplanes. The NPRM published in the **Federal Register** on September 14, 2023 (88 FR 63036). The NPRM was prompted by AD 2023–0065, dated March 20, 2023, issued by EASA, which is the Technical Agent for the Member States of the European Union (EASA AD 2023–0065) (also referred to as the MCAI). The MCAI states that during a design review of the rudder control architecture, it was discovered that the rudder control rod could buckle during operation with one engine inoperative during take-off and landing phases. This condition, if not detected and corrected, could result in reduced control of the airplane.

In the NPRM, the FAA proposed to require visually inspecting the rudder control rod, performing a one-time functional check of the rudder control rod, performing corrective actions if necessary, and reporting the inspection results, as specified in EASA AD 2023–0065. The NPRM also proposed to limit the installation of affected parts under certain conditions. The FAA is issuing this AD to address the potential failure of a rudder control rod.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–1881.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

EASA AD 2023–0065 specifies procedures for a functional check and general visual inspection (GVI) of the rudder control rod (measuring the length of the rudder control rod, inspecting for signs of bending, ensuring both rudder control rod ends are symmetrically adjusted, and ensuring the threads of the rod end fully cover both inspection holes). Depending on the inspection results, EASA AD 2023–0065 also specifies corrective action, including obtaining and following instructions if any discrepancy is identified. EASA AD 2023–0065 also requires reporting the inspection results to Deutsche Aircraft GmbH and limits the installation of affected parts under certain conditions.

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

Interim Action

The FAA considers that this AD would be an interim action. If final action is later identified, the FAA might consider further rulemaking then.

Costs of Compliance

The FAA estimates that this AD affects 54 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
2 work-hours × $85 per hour = $170	$0	$170	$9,180

The FAA has received no definitive data on which to base the cost estimates for the on-condition actions specified in this AD.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to take approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

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

This AD will not have federalism implications under Executive Order 13132. This AD will 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 that this AD:

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

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

(3) Will 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 Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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:

2023–23–07 Deutsche Aircraft GmbH (Type Certificate Previously Held by 328 Support Services GmbH; AvCraft Aerospace GmbH; Fairchild Dornier GmbH; Dornier Luftfahrt GmbH): Amendment 39–22609; Docket No. FAA–2023–1881; Project Identifier MCAI–2023–00495–T.

(a) Effective Date

This airworthiness directive (AD) is effective January 16, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Deutsche Aircraft GmbH (Type Certificate previously held by 328 Support Services GmbH; AvCraft Aerospace GmbH; Fairchild Dornier GmbH; Dornier Luftfahrt GmbH) Model 328–100 and 328–300 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code: 27, Flight Controls.

(e) Unsafe Condition

This AD was prompted by a manufacturer's design review, which identified a potential risk of the rudder control rod buckling during operation with one engine inoperative during take-off and landing phases. The FAA is issuing this AD to address the potential failure of a rudder control rod. The unsafe condition, if not addressed, could result in reduced control of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2023–0065, dated March 20, 2023 (EASA AD 2023–0065).

(h) Exceptions to EASA AD 2023–0065

(1) Where EASA AD 2023–0065 refers to its effective date, this AD requires using the effective date of this AD.

(2) Replace the entire text of paragraph (2) of EASA AD 2023–0065 with the following text, ''If, during the functional check or GVI as required by paragraph (1) of this AD, as applicable, the length of the rudder control rod exceeds the maximum allowable length specified in the ASB, the rudder control rod is bent, both rudder control rod ends are not symmetrically adjusted, or both inspection holes are not fully covered with the threads of the rod end, repair before further flight using a method approved by the Manager, International Validation Branch, FAA; or EASA; or Deutsche Aircraft GmbH's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.''

(3) This AD does not adopt the ''Remarks'' section of EASA AD 2023–0065.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* 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 responsible Flight Standards Office, as appropriate. If sending information directly to the International Validation Branch, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or EASA; or Deutsche Aircraft GmbH's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(j) Additional Information

For more information about this AD, contact Todd Thompson, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206–231–3228; email *todd.thompson@faa.gov*.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) 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 this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2023–0065, dated March 20, 2023.

(ii) [Reserved]

(3) For EASA AD 2023–0065, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email: *ADs@easa.europa.eu*; website: *easa.europa.eu*. You may find this EASA AD on the EASA website: *ad.easa.europa.eu*.

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th Street, Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(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 November 13, 2023.

Ross Landes,

Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2023–27120 Filed 12–11–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–1723; Project Identifier MCAI–2023–00457–T; Amendment 39–22605; AD 2023–23–03]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A330–200 Freighter series airplanes. This AD was prompted by a widespread fatigue damage (WFD) evaluation on Airbus SAS Model A330–200 Freighter series airplanes, which found that the circumferential joint at Frame 58 (near the rear fuselage) is susceptible to WFD. This AD requires a modification to reinforce the circumferential joints at Frame 58 and, if necessary, corrective action, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 16, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 16, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–1723; 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 final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For material incorporated by reference in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; website *easa.europa.eu*. You may find this material on the EASA website at *ad.easa.europa.eu*.
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *regulations.gov* under Docket No. FAA–2023–1723.

FOR FURTHER INFORMATION CONTACT: Tim Dowling, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone: 206–231–3667; email: *timothy.p.dowling@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus SAS Model A330–223F and –243F airplanes. The NPRM published in the **Federal Register** on August 31, 2023 (88 FR 60157). The NPRM was prompted by AD 2023–0053, dated March 14, 2023, issued by EASA, which is the Technical Agent for the Member States of the European Union (EASA AD 2023–0053) (also referred to as the MCAI). The MCAI states that within the scope of WFD evaluations on Model A330–200 Freighter series airplanes, it was determined that the circumferential joint at Frame 58 (near the rear fuselage) is susceptible to WFD. WFD, if not corrected, may lead to crack initiation and undetected propagation, which could affect the structural integrity of the airplane.

In the NPRM, the FAA proposed to require a modification to reinforce the circumferential joints at Frame 58 and, if necessary, corrective action, as specified in EASA AD 2023–0053. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–1723.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the cost to the public.

Additional Change to This AD

The FAA revised paragraph (h)(3) of this AD to clarify that if any discrepancy other than cracking is found, operators must obtain instructions and accomplish those instructions accordingly. If cracking is found, operators must obtain instructions and repair the cracking before further flight. In the NPRM, the FAA inadvertently specified only cracking as a discrepancy; however, incorrect hole diameters are also a possible discrepancy.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

EASA AD 2023–0053 specifies procedures for a modification (including rotating probe inspections for discrepancies and measurement of the maximum hole diameter at any point in the fastener hole bores on the circumferential joints) to reinforce the circumferential joints at Frame 58 and, if any discrepancies (cracking or measurements that are outside the acceptable hole diameters) are found, corrective action (contacting the manufacturer for instructions and accomplishing those instructions). This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Explanation of Compliance Time

The compliance time for the replacement specified in this AD for addressing WFD was established to ensure that certain structure is replaced before WFD develops in airplanes. Standard inspection techniques cannot be relied on to detect WFD before it becomes a hazard to flight. The FAA will not grant any extensions of the compliance time to complete any AD-mandated service bulletin related to WFD without extensive new data that would substantiate and clearly warrant such an extension.

Costs of Compliance

The FAA estimates that this AD will affect 6 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
368 work-hours × $85 per hour = $31,280	$7,700	$38,980	$233,880

The FAA has received no definitive data on which to base the cost estimates for the on-condition actions specified in this AD.

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

This AD will not have federalism implications under Executive Order 13132. This AD will 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 that this AD:

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

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

(3) Will 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 Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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:

2023–23–03 Airbus SAS: Amendment 39–22605; Docket No. FAA–2023–1723; Project Identifier CAI–2023–00457–T.

(a) Effective Date

This airworthiness directive (AD) is effective January 16, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS Model A330–223F and –243F airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by a widespread fatigue damage (WFD) evaluation on Model A330–200 Freighter series airplanes, which found that the circumferential joint at Frame 58 (near the rear fuselage) is susceptible to WFD. The FAA is issuing this AD to address WFD in the affected area. The unsafe condition, if not corrected, may lead to crack initiation and undetected propagation, which could affect the structural integrity of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2023–0053, dated March 14, 2023 (EASA AD 2023–0053).

(h) Exceptions to EASA AD 2023–0053

(1) Where EASA AD 2023–0053 refers to its effective date, this AD requires using the effective date of this AD.

(2) This AD does not adopt the ''Remarks'' section of EASA AD 2023–0053.

(3) Where paragraph (2) of EASA AD 2023–0053 specifies ''if, during the accomplishment of any inspection, which is part of the modification as required by paragraph (1) of this AD, any discrepancy, as identified in the SB, is detected, before next flight, contact Airbus for approved instructions and accomplish those instructions accordingly,'' this AD requires replacing those words with ''if, during the accomplishment of any inspection, which is part of the modification as required by paragraph (1) of this AD, any discrepancy other than cracking is detected, before next flight, contact the Manager, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA) for approved instructions and accomplish those instructions accordingly; and if any cracking is detected, the cracking must be repaired before further flight using a method approved by the Manager, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.''

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* 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 responsible Flight Standards Office, as appropriate. If sending information directly to the International Validation Branch, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Additional Information

For more information about this AD, contact Tim Dowling, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone: 206–231–3667; email: *timothy.p.dowling@faa.gov*.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) 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 this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2023–0053, dated March 14, 2023.

(ii) [Reserved]

(3) For EASA AD 2023–0053, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; website *easa.europa.eu*. You may find this EASA AD on the EASA website at *ad.easa.europa.eu*.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(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 November 9, 2023.

Ross Landes,

Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2023–27115 Filed 12–11–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2023–1352; Airspace Docket No. 23–ASO–55]

RIN 2120–AA66

Amendment of Class D and Class E Airspace; Ozark, AL and Columbus, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action makes editorial changes, updating the airport names of two Army Airfields and replacing the term Notice to Airmen with Notice to Air Missions in Class D and Class E descriptions. This action does not change the airspace boundaries or operating requirements.

DATES: Effective 0901 UTC, March 21, 2024. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: This final rule may be viewed online at *www.regulations.gov* using the FAA Docket number. Electronic retrieval help and guidelines are available on the website. It is available 24 hours a day, 365 days a year.

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority, as it updates airport names and airspace descriptions. This update is administrative change and does not change the airspace boundaries or operating requirements.

Incorporation by Reference

Class D and Class E airspace are published in paragraphs 5000, 6002, 6004, and 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, incorporated by reference in 14 CFR 71.1 annually. This document amends the current version of that order, FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023. FAA Order JO 7400.11H is publicly available as listed in the **ADDRESSES** section of this document. These amendments will be published in the next FAA Order JO 7400.11 update. FAA Order JO 7400.11H lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to 14 CFR part 71 amends the Class D airspace, Class E surface airspace, Class E airspace designated as an extension to a Class D surface area, and Class E airspace extending upward from 700 feet above the surface for Fort Novosel, Ozark, AL, and Fort Moore, Columbus, GA by updating each airport's name (formerly Fort Rucker and Fort Benning, respectively), as well as updating the descriptions by making editorial changes, replacing the term Notice to Airmen with Notice to Air Missions, and replacing the term Airport/Facility Directory with Chart Supplement in the appropriate descriptions. This action is an administrative change and does not affect the airspace boundaries or operating requirements; therefore, notice and public procedure under 5 U.S.C. 553(b) is unnecessary.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. 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

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances warrant the preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

ASO AL D Fort Novosel (Ozark), AL [Amended]

Cairns Army Air Field (Fort Novosel), AL
(Lat. 31°16′33″ N, long. 85°42′48″ W)

That airspace extending upward from the surface to and including 2,800 feet MSL within a 5-mile radius of lat. 31°18′30″ N, long. 85°42′20″ W. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Air Missions. The effective date and time will thereafter be continuously published in the Chart Supplement.

* * * * *

ASO GA D Columbus, GA [Amended]

Columbus Airport, GA
(Lat. 32°30′59″ N, long. 84°56′20″ W)
Lawson AAF (Fort Moore)
(Lat. 32°19′54″ N, long. 84°59′14″ W)

That airspace extending upward from the surface to and including 2,900 feet MSL within a 4.4-mile radius of the Columbus Airport, and that airspace extending upward from the surface to and including 2,700 feet MSL within a 5.2-mile radius of Lawson Army Airfield (Ft. Moore) and that airspace within 1 mile each side of the 145° bearing from the AAF extending from the 5.2-mile radius to 6.8 miles southeast of the AAF. This Class D airspace is effective during the specific dates and times established in advance by a Notice to Air Missions. The effective date and time will thereafter be continuously published in the Chart Supplement.

* * * * *

Paragraph 6002 Class E Surface Airspace.

* * * * *

ASO AL E2 Fort Novosel (Ozark), AL [Amended]

Columbus Airport, GA
(Lat. 32°30′59″ N, long. 84°56′20″ W)
Lawson AAF (Fort Moore)
(Lat. 32°19′54″ N, long. 84°59′14″ W)

That airspace extending upward from the surface to and including 2,900 feet MSL within a 4.4-mile radius of the Columbus Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Air Missions. The effective date and time will thereafter be continuously published in the Chart Supplement.

* * * * *

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

* * * * *

ASO MS E5 Columbus, MS [Amended]

Columbus AFB, MS
(Lat. 33°38′43″ N, long. 88°26′45″ W)
Monroe County Airport
(Lat. 33°52′26″ N, long. 88°29′23″ W)
Columbus-Lowndes County Airport
(Lat. 33°27′55″ N, long. 88°22′51″ W)
Golden Triangle Regional Airport
(Lat. 33°26′54″ N, long. 88°35′29″ W)
Oktibbeha Airport
(Lat. 33°29′52″ N, long. 88°4′53″ W)
McCharen Field
(Lat. 33°35′03″ N, long. 88°40′00″ W)

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Columbus AFB, a 16-mile radius of Monroe County Airport, and within a 6.4-mile radius of Columbus-Lowndes County Airport, and within a 6.6-mile radius of Golden Triangle Regional Airport, and within a 6.2-mile radius of Oktibbeha Airport, and a 6.3-mile radius of McCharen Field.

* * * * *

Issued in College Park, Georgia, on December 6, 2023.

Andreese C. Davis,

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

[FR Doc. 2023–27195 Filed 12–11–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–1006]

Schedules of Controlled Substances: Temporary Placement of MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA into Schedule I

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Temporary amendment; temporary scheduling order.

SUMMARY: The Administrator of the Drug Enforcement Administration is issuing this temporary order to schedule six synthetic cannabinoids and their optical and geometric isomers, salts, and salts of isomers, whenever the existence of such isomers and salts is possible, in schedule I under the Controlled Substances Act. This action is based on a finding by the Administrator that the placement of these six substances in schedule I is necessary to avoid imminent hazard to the public safety. As a result of this order, the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances on persons who handle (manufacture, distribute, reverse distribute, import, export, engage in research, conduct instructional activities or chemical analysis with, or possess) or propose to handle these six specified controlled substances.

DATES: This temporary scheduling order is effective December 12, 2023, until December 12, 2025. If this order is extended or made permanent, the DEA will publish a document in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Terrence L. Boos, Ph.D., Drug and Chemical Evaluation Section, Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (571) 362–3249.

SUPPLEMENTARY INFORMATION: The Drug Enforcement Administration (DEA) issues a temporary scheduling order [1] (in the form of a temporary amendment) to add the following six substances, including their optical and geometric isomers, salts, and salts of isomers, whenever the existence of such isomers and salts is possible, to schedule I under the Controlled Substances Act (CSA):

- Methyl 3,3-dimethyl-2-(1-(pent-4-en-1-yl)-1*H*-indazole-3-carboxamido)butanoate (Other name: MDMB–4en–PINACA),
- Methyl 2-[[1-(4-fluorobutyl)indole-3-carbonyl]amino]-3,3-dimethyl-butanoate (Other names: 4F–MDMB–BUTICA; 4F–MDMB–BICA),
- *N*-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(pent-4-en-1-yl)-1*H*-indazole-3-carboxamide (Other name: ADB–4en–PINACA),
- 5-Pentyl-2-(2-phenylpropan-2-yl)pyrido[4,3-b]indol-1-one (Other name: CUMYL–PEGACLONE; SGT–151),
- Ethyl 2-[[1-(5-fluoropentyl)indole-3-carbonyl]amino]-3,3-dimethyl-butanoate (Other names: 5F–EDMB–PICA; 5F–EDMB–2201), and
- Methyl 2-(1-(4-fluorobenzyl)-1*H*-indole-3-carboxamido)-3-methyl butanoate (Other name: MMB–FUBICA).

Legal Authority

The CSA provides the Attorney General, as delegated to the Administrator of DEA (Administrator) pursuant to 28 CFR 0.100, with the authority to temporarily place a substance in schedule I of the CSA for two years without regard to the requirements of 21 U.S.C. 811(b), if the Administrator finds that such action is necessary to avoid an imminent hazard to the public safety.[2] In addition, if proceedings to control a substance are initiated under 21 U.S.C. 811(a)(1) while the substance is temporarily controlled under section 811(h), the Administrator may extend the temporary scheduling for up to one year.[3]

[1] Though DEA has used the term ''final order'' with respect to temporary scheduling orders in the past, this order adheres to the statutory language of 21 U.S.C. 811(h), which refers to a ''temporary scheduling order.'' No substantive change is intended.

[2] 21 U.S.C. 811(h)(1).

[3] 21 U.S.C. 811(h)(2).

Where the necessary findings are made, a substance may be temporarily scheduled if it is not listed in any other schedule under 21 U.S.C. 812, or if there is no exemption or approval in effect for the substance under section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 355.[4]

Background

The CSA requires the Administrator to notify the Secretary of the Department of Health and Human Services (HHS) of an intent to place a substance in schedule I of the CSA temporarily (*i.e.,* to issue a temporary scheduling order).[5] The Administrator transmitted the required notice to the Assistant Secretary for Health of HHS (Assistant Secretary),[6] by letter dated January 24, 2022, regarding MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA. The Assistant Secretary responded to this notice by letter dated March 7, 2022, and advised that, based on a review by the Food and Drug Administration (FDA), there are currently no approved new drug applications or investigational new drug applications for MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA. The Assistant Secretary also stated that HHS has no objection to the temporary placement of these substances in schedule I of the CSA.

DEA has taken into consideration the Assistant Secretary's comments as required by subsection 811(h)(4). DEA has found that the control of these six synthetic cannabinoids (SCs) in schedule I on a temporary basis is necessary to avoid an imminent hazard to the public safety. MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA currently are not listed in any schedule under the CSA, and no exemptions or approvals under 21 U.S.C. 355 are in effect for these six substances.

As required by 21 U.S.C. 811(h)(1)(A), DEA published a notice of intent (NOI) to temporarily schedule MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA on April 4, 2023.[7] That NOI discussed findings from DEA's three-factor analysis dated April 2023, which DEA made available on *www.regulations.gov.*

To find that temporarily placing a substance in schedule I of the CSA is necessary to avoid an imminent hazard to the public safety, the Administrator must consider three of the eight factors set forth in 21 U.S.C. 811(c): The substance's history and current pattern of abuse; the scope, duration and significance of abuse; and what, if any, risk there is to the public health. Consideration of these factors includes any information indicating actual abuse, diversion from legitimate channels, and clandestine importation, manufacture, or distribution of these substances.[8]

Substances meeting the statutory requirements for temporary scheduling may only be placed in schedule I.[9] Substances in schedule I have high potential for abuse, no currently accepted medical use in treatment in the United States, and no accepted safety for use under medical supervision.[10]

The DEA's three-factor analysis and the Assistant Secretary's March 7, 2022, letter are available in their entirety under the tab ''Supporting Documents'' of the public docket of this action at *www.regulations.gov.*

Synthetic Cannabinoids

Synthetic cannabinoids (SCs) are substances synthesized in laboratories that mimic the biological effects of delta-9-tetrahydrocannabinol (THC, schedule I), the main psychoactive ingredient in marijuana (schedule I). SCs were introduced to the designer drug market in several European countries as ''herbal incense'' before the initial encounter in the United States by the U.S. Customs and Border Protection (CBP) in November 2008. From 2009, abuse of SCs has escalated in the United States as evidenced by large numbers of law enforcement encounters of SCs applied onto plant material and in other designer drug products intended for human consumption.[11] Recent hospital reports, scientific publications, and/or law enforcement reports demonstrate that MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA, and their associated designer drug products, are being abused for their psychoactive properties (see Factors 5 and 6 in DEA's three-factor analysis). As with many generations of SCs encountered since 2009, the abuse of MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA is negatively impacting communities in the United States.

As noted by DEA and CBP, SCs originate from foreign sources, such as China. Substances in bulk powder form are smuggled via common carrier into the United States and find their way to clandestine designer drug product manufacturing operations located in residential neighborhoods, garages, warehouses, and other similar destinations throughout the country. According to online discussion boards and law enforcement encounters, spraying or mixing the SCs with plant material provides a vehicle for the most common route of administration—smoking (using a pipe, a water pipe, or rolling the drug-laced plant material in cigarette papers).

MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA have no accepted medical use in treatment in the United States.[12] Emergency department presentations involving MDMB–4en–PINACA or CUMYL–PEGACLONE have included seizures, sudden collapse, involuntary muscle spasms, jerking movements, catatonia, and increased violence. Multiple deaths have been reported involving MDMB–4en–PINACA, 4F–MDMB–BUTICA, and CUMYL–PEGACLONE. In addition, all six SCs have been seized by law enforcement in the United States. Use of other schedule I SCs (*e.g.,* JWH–018, AB–FUBINACA) has resulted in signs of addiction and withdrawal. Based on the pharmacological similarities between MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA and other schedule I SCs (*e.g.,* JWH–018, AB–FUBINACA), these six SCs are likely to produce signs of addiction and withdrawal similar to

[4] 21 U.S.C. 811(h)(1); 21 CFR part 1308.

[5] 21 U.S.C. 811(h)(4).

[6] The Secretary of HHS has delegated to the Assistant Secretary for Health of HHS the authority to make domestic drug scheduling recommendations. 58 FR 35460, July 1, 1993.

[7] 88 FR 19896.

[8] 21 U.S.C. 811(h)(3).

[9] 21 U.S.C. 811(h)(1).

[10] 21 U.S.C. 812(b)(1).

[11] While law enforcement data are not direct evidence of abuse, they can lead to an inference that drugs have been diverted and abused. *See* 76 FR 77330, 77332, Dec. 12, 2011.

[12] Although there is no evidence suggesting that MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA have a currently accepted medical use in treatment in the United States, it bears noting that a drug cannot be found to have such medical use unless DEA concludes that it satisfies a five-part test. Specifically, with respect to a drug that has not been approved by FDA, to have a currently accepted medical use in treatment in the United States, all of the following must be demonstrated: i. The drug's chemistry must be known and reproducible; ii. there must be adequate safety studies; iii. there must be adequate and well-controlled studies proving efficacy; iv. the drug must be accepted by qualified experts; and v. the scientific evidence must be widely available. 57 FR 10499, Mar. 26, 1992, pet. for rev. denied, *Alliance for Cannabis Therapeutics* v. *DEA,* 15 F.3d 1131, 1135 (D.C. Cir. 1994).

those produced by other schedule I SCs (*e.g.,* JWH–018, AB–FUBINACA).

MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA are SCs that have pharmacological effects similar to the schedule I hallucinogen THC and other temporarily and permanently controlled schedule I SCs. With no approved medical use and limited safety or toxicological information, MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA have emerged in the designer drug market, and the abuse of these substances for their psychoactive properties is concerning.

Factor 4. History and Current Pattern of Abuse

SCs have been developed by researchers over the last 30 years as tools for investigating the endocannabinoid system (*e.g.,* determining CB1 and CB2 receptor activity). The first encounter of SCs intended for illicit use within the United States occurred in November 2008 by CBP. Since then, the popularity of SCs as product adulterants and objects of abuse has increased as evidenced by law enforcement seizures, public health information, and media reports.

Research and clinical reports have demonstrated that SCs are applied onto plant material so that the material may be smoked as users attempt to obtain a euphoric and psychoactive ''high,'' believed to be similar to marijuana. The adulterated products are marketed as ''legal'' alternatives to marijuana.

The designer drug products laced with SCs, including MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA, are often sold under the guise of ''herbal incense'' or ''potpourri,'' using various product names, and are routinely labeled ''not for human consumption.'' Additionally, these products are marketed as a ''legal high'' or ''legal alternative to marijuana'' and are readily available over the internet, in head shops, or sold in convenience stores. There are incorrect assumptions that these products are safe, that these are synthetic forms of marijuana, and that labeling these products as ''not for human consumption'' is a legal defense to criminal prosecution under the Controlled Substances Analogue Enforcement Act.

The powder form of SCs is typically dissolved in solvents (*e.g.,* acetone) before being applied to plant material, or dissolved in a propellant intended for use in electronic cigarette devices. Law enforcement personnel have encountered various application methods including buckets or cement mixers in which plant material and one or more SCs are mixed together, or in large areas where the plant material is spread out so that a dissolved SC mixture can be applied directly. Once mixed, the SC plant material is then allowed to dry before manufacturers package the product for distribution, ignoring any quality control mechanisms to prevent contamination or to ensure a uniform concentration of the substance in each package. Adverse health consequences may also occur from directly ingesting the drug during the manufacturing process. The failure to adhere to any manufacturing standards with regard to amounts, the substance(s) included, purity, or contamination may further increase the risk of adverse events. However, it is important to note that adherence to manufacturing standards would not eliminate their potential to produce adverse effects because the toxicity and safety profiles of these SCs have not been studied. MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA, similar to other schedule I SCs (*e.g.,* JWH–018, AB–FUBINACA), have been found in powder form or mixed with dried leaves or herbal blends that were marketed for human use.

Following their manufacture in China, SCs are often encountered in countries, including New Zealand, Australia, and Russia, before appearing throughout Europe and, eventually, in the United States. Law enforcement in the United States has encountered MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA, and has documented the abuse of these substances. SCs and their associated products are available over the internet and sold in gas stations, convenience stores, and tobacco and head shops. MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA, similar to the previously scheduled SCs, have been seized alone and/or laced on products that are marketed under the guise of ''herbal incense'' and promoted as a ''legal'' alternative to marijuana.

CUMYL–PEGACLONE was detailed in a patent published in 2014, was first reported as an adulterated plant material in Germany in December 2016, and appeared in the United States in September 2018. These data further support the trend that SCs often appear in the illicit drug markets of other countries, including those in Europe, before being reported in the United States. Law enforcement has seized CUMYL–PEGACLONE, and the substance's abuse has been associated with overdoses requiring emergency medical intervention. Adverse effects reported following the abuse of CUMYL–PEGACLONE have included seizures followed by collapse and deaths. CUMYL–PEGACLONE has also been encountered laced onto paper in attempts to be smuggled inside of prison facilities.

Users abuse SCs by smoking for the purpose of achieving intoxication, which has resulted in numerous emergency department visits and calls to poison centers. As reported by the American Association of Poison Control Centers (AAPCC), severe, life-threatening health effects, including severe agitation and anxiety, nausea, vomiting, seizures, and hallucinations, can occur following ingestion of SCs. The AAPCC has specifically noted that SCs are made specifically to be abused.[13] Emergency department presentations involving MDMB–4en–PINACA or CUMYL–PEGACLONE have included seizures, sudden collapse, involuntary muscle spasms, jerking movements, catatonia, or increased violence. Multiple deaths have been reported involving MDMB–4en–PINACA, 4F–MDMB–BUTICA, and CUMYL–PEGACLONE (see Factor 6 in DEA's three-factor analysis).

Factor 5. Scope, Duration, and Significance of Abuse

Novel SCs substances, differing only by small chemical structural modifications intended to avoid prosecution while maintaining the pharmacological effects, continue to be sold on the illicit drug market as evidence by law enforcement encounters of these substances. Law enforcement and health care professionals continue to report the abuse of these substances and their associated products. The threat of serious injury to the individual and the imminent threat to public safety following the ingestion of MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, MMB–FUBICA, and other SCs persist.

Additional information obtained through the National Forensic Laboratory Information System

[13] *https://aapcc.org/track/synthetic-cannabinoids.*

(NFLIS),[14] along with additional data, may be found in DEA's three-factor analysis. According to NFLIS data,[15] state and local forensic laboratories have detected the following information about the SCs in question:

- MDMB–4en–PINACA was identified in 9,566 NFLIS reports since 2019. In addition, MDMB–4en–PINACA was identified in five exhibits mixed with heroin and/or fentanyl and packaged for sale as suspected heroin.
- 4F–MDMB–BUTICA was identified in 385 NFLIS reports since 2020. 4F–MDMB–BUTICA was also identified in one exhibit in a pill form, mixed with methamphetamine and a synthetic cathinone known as eutylone.
- CUMYL–PEGACLONE was identified in two CBP drug seizures in 2018 and 2021, respectively.
- 5F–EDMB–PICA was identified in 106 NFLIS reports since 2020.
- MMB–FUBICA was identified in 397 NFLIS reports since 2016.

Factor 6. What, if Any, Risk There Is to the Public Health

Since first being identified in the United States in 2008, the ingestion of SCs continues to result in serious adverse effects. Details of these events involving MDMB–4en–PINACA and CUMYL–PEGACLONE are summarized below (for additional information and citations, see Factors 5 and 6 in DEA's three-factor analysis).

1. In October 2017 in France, two 16-year-old juveniles were given a cigarette laced with white powder by an unknown individual. Upon arrest of the dealer, he stated the powder was SGT–151. Both juveniles developed seizures followed by collapse. Toxicological analysis of both victim's blood and blood collected from the arrested dealer (who claimed to be a user of the same powder) confirmed the presence of CUMYL–PEGACLONE (SGT–151) and its metabolite, *N*-dealkyl CUMYL–PEGACLONE.

2. Between January and December 2017 in Germany, CUMYL–PEGACLONE was detected in 34 forensic serum/blood samples from fatal and non-fatal cases. Of these cases, six deaths were reported by the Institute of Forensic Medicine in Munich and the Institute of Forensic Medicine in Mainz, respectively. Details of the deaths demonstrated multiple factors in addition to SCs as possible causes of death.

3. Between July 1, 2018, and December 31, 2020, in Northern Australia, CUMYL–PEGACLONE was detected in five deaths. Concurrent alcohol use and underlying cardiovascular disease were considered relevant factors in most cases.

4. In September 2019, the Center for Forensic Science Research and Education released a report detailing the identification of MDMB–4en–PINACA in biological fluids per their toxicology department.

5. In February 2020, local law enforcement in Holyoke, Massachusetts, reported serious adverse effects following the abuse of the contents in glassine bags with suspected heroin. Analysis of contents in the bags confirmed the presence of MDMB–4en–PINACA. Per law enforcement witnesses to the overdoses, individuals were experiencing involuntary body/muscle spasms and movements that appeared similar to a seizure, although more violent. Victims were alert and conscious, and they appeared to be under the influence of some unknown narcotics at the time, with officers noting that what was observed was nothing like a typical heroin overdose. Victims described it like being under the influence of phencyclidine (schedule II substance) or something similar. In some cases, people were violent and emergency personnel were having a difficult time providing medical attention to these individuals. Emergency personnel also described very high heart rates and blood pressure. Some individuals were acting erratic and running in and out of traffic.

6. In March 2021, a forensic toxicology report from the Defense Health Agency reported the presence of ADB–BUTINACA, ADB–BUTINACA N-butanoic acid (a metabolite of ADB–BUTINACA), and MDMB–4en–PINACA 3,3-dimethylbutanoic acid (a metabolite of MDMB–4en–PINCA) in a submitted urine specimen.

7. MDMB–4en–PINACA and/or its metabolite were detected in 25 forensic investigation cases between August 2019 and March 2020. The first positive sample was collected in May 2019. The majority of cases (n = 16, 64%) were submitted from postmortem investigations, followed by eight cases from suspected clinical toxicology investigations, and one case from an impaired driving investigation.

Because they share pharmacological similarities with schedule I substances (Δ^9-THC, JWH–018, and other temporarily and permanently controlled schedule I SCs), MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA pose serious risks to an abuser. Tolerance to SCs may develop fairly rapidly with larger doses being required to achieve the desired effect. Acute and chronic abuse of SCs in general have been linked to adverse health effects including signs of addiction and withdrawal, numerous reports of emergency department admissions, and overall toxicity and deaths. Psychiatric case reports have been reported in the scientific literature detailing the SC abuse and associated psychoses (see Factor 6 in DEA's three-factor analysis). As abusers obtain these drugs through unknown sources, the identity and purity of these substances is uncertain and inconsistent, thus posing significant adverse health risks to users.

MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA are being encountered on the illicit drug market and have no accepted medical use in the United States. Regardless, these products continue to be easily available and abused by diverse populations.

Finding of Necessity of Schedule I Placement To Avoid Imminent Hazard to Public Safety

In accordance with 21 U.S.C. 811(h)(3), based on the available data and information summarized above, the uncontrolled manufacture, distribution, reverse distribution, importation, exportation, conduct of research and chemical analysis with, possession, and/or abuse of MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA pose an imminent hazard to the public safety. DEA is not aware of any currently accepted medical uses for these substances in the United States. A substance meeting the statutory requirements for temporary scheduling, found in 21 U.S.C. 811(h)(1), may only be placed in schedule I. Substances in schedule I are those that have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. Available data and information for MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA indicate that these substances have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision.

[14] NFLIS is a national forensic laboratory reporting system that systematically collects results from drug chemistry analyses conducted by State and local forensic laboratories in the United States.

[15] At the time of query (March 16, 2022), 2021 and 2022 data were still reporting.

As required by 21 U.S.C. 811(h)(4), the Administrator transmitted to the Assistant Secretary for Health, via a letter dated January 24, 2022, notice of her intent to place MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA in schedule I on a temporary basis. HHS had no objection to the temporary placement of these substances in schedule I.

DEA subsequently published a NOI in the **Federal Register** on April 4, 2023.[16]

Conclusion

In accordance with 21 U.S.C. 811(h)(1) and (3), the Administrator considered available data and information, herein set forth the grounds for her determination that it is necessary to temporarily place MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA in schedule I of the CSA, and finds that placement of these substances in schedule I of the CSA is necessary in order to avoid an imminent hazard to the public safety.

This temporary order scheduling these substances will be effective on the date the order is published in the **Federal Register** and remain in effect for two years, with a possible extension of one year, pending completion of the regular (permanent) scheduling process.[17]

The CSA sets forth specific criteria for scheduling a drug or other substance. Permanent scheduling actions in accordance with 21 U.S.C. 811(a) are subject to formal rulemaking procedures done ''on the record after opportunity for a hearing'' conducted pursuant to the provisions of 5 U.S.C. 556 and 557.[18] The permanent scheduling process of formal rulemaking affords interested parties with appropriate process and the government with any additional relevant information needed to make a determination. Final decisions that conclude the regular scheduling process of formal rulemaking are subject to judicial review.[19] Temporary scheduling orders are not subject to judicial review.[20]

Requirements for Handling

Upon the effective date of this temporary order, MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA will be subject to the regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, reverse distribution, importation, exportation, engagement in research, and conduct of instructional activities or chemical analysis with, and possession of schedule I controlled substances, including the following:

1. *Registration.* Any person who handles (possesses, manufactures, distributes, reverse distributes, imports, exports, engages in research, or conducts instructional activities or chemical analysis with), or desires to handle, MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, or MMB–FUBICA must be registered with the DEA to conduct such activities pursuant to 21 U.S.C. 822, 823, 957, and 958, and in accordance with 21 CFR parts 1301 and 1312, as of December 12, 2023. Any person who currently handles MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, or MMB–FUBICA, and is not registered with the DEA, must submit an application for registration and may not continue to handle MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA as of December 12, 2023, unless the DEA has approved that application for registration pursuant to 21 U.S.C. 822, 823, 957, and 958, and in accordance with 21 CFR parts 1301 and 1312. Retail sales of schedule I controlled substances to the general public are not allowed under the CSA. Possession of any quantity of these substances in a manner not authorized by the CSA on or after December 12, 2023 is unlawful and those in possession of any quantity of these substances may be subject to prosecution pursuant to the CSA.

2. *Disposal of stocks.* Any person who does not desire or is not able to obtain a schedule I registration to handle MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, or MMB–FUBICA must surrender all currently held quantities of these six substances.

3. *Security.* MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA are subject to schedule I security requirements and must be handled in accordance with 21 CFR 1301.71–1301.93, as of December 12, 2023.

4. *Labeling and Packaging.* All labels, labeling, and packaging for commercial containers of MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA must comply with 21 U.S.C. 825 and 958(e), and 21 CFR part 1302. Current DEA registrants shall have 30 calendar days from December 12, 2023 to comply with all labeling and packaging requirements.

5. *Inventory.* Every DEA registrant who possesses any quantity of MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA on the effective date of this order must take an inventory of all stocks of these substances on hand pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11. Current DEA registrants will have 30 calendar days from the effective date of this order to be in compliance with all inventory requirements. After the initial inventory, every DEA registrant must take an inventory of all controlled substances (including MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA) on hand on a biennial basis pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

6. *Records.* All DEA registrants must maintain records with respect to MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA pursuant to 21 U.S.C. 827 and 958(e), and in accordance with 21 CFR parts 1304, 1312, 1317 and section 1307.11. Current DEA registrants authorized to handle these six substances shall have 30 calendar days from the effective date of this order to be in compliance with all recordkeeping requirements.

7. *Reports.* All DEA registrants must submit reports with respect to MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA pursuant to 21 U.S.C. 827, and in accordance with 21 CFR 1304, 1312, and 1317, and sections 1301.74(c) and 1301.76(b), as of December 12, 2023. Manufacturers and distributors must also submit reports regarding these six substances to the Automation of Reports and Consolidated Order System pursuant to 21 U.S.C. 827 and in accordance with 21 CFR parts 1304 and 1312.

8. *Order Forms.* All DEA registrants who distribute MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA must

[16] 88 FR 19896.

[17] 21 U.S.C. 811(h)(1) and (2).

[18] 21 U.S.C. 811.

[19] 21 U.S.C. 877.

[20] 21 U.S.C. 811(h)(6).

comply with order form requirements pursuant to 21 U.S.C. 828 and in accordance with 21 CFR part 1305 as of December 12, 2023.

9. *Importation and Exportation.* All importation and exportation of MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA must be in compliance with 21 U.S.C. 952, 953, 957, and 958, and in accordance with 21 CFR part 1312 as of December 12, 2023.

10. *Quota.* Only DEA registered manufacturers may manufacture MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA in accordance with a quota assigned pursuant to 21 U.S.C. 826, and in accordance with 21 CFR part 1303, as of December 12, 2023.

11. *Liability.* Any activity involving MDMB–4en–PINACA, 4F–MDMB–BUTICA, ADB–4en–PINACA, CUMYL–PEGACLONE, 5F–EDMB–PICA, and MMB–FUBICA not authorized by, or in violation of the CSA, occurring as of December 12, 2023, is unlawful and may subject the person to administrative, civil, and/or criminal sanctions.

Regulatory Matters

The CSA provides for expedited temporary scheduling actions where necessary to avoid imminent hazards to the public safety. Under 21 U.S.C. 811(h), the Administrator, as delegated by the Attorney General, may, by order, temporarily schedule substances in schedule I. Such orders may not be issued before the expiration of 30 days from: (1) the publication of a notice in the **Federal Register** of the intent to issue such order and the grounds upon which such order is to be issued, and (2) the date that notice of the proposed temporary scheduling order is transmitted to the Assistant Secretary for Health of HHS, as delegated by the Secretary of HHS.[21]

Inasmuch as section 811(h) directs that temporary scheduling actions be issued by order (as distinct from a rule) and sets forth the procedures by which such orders are to be issued, including the requirement to publish in the **Federal Register** a notice of intent, the notice-and-comment requirements of section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553, which are applicable to rulemaking, do not apply to this temporary scheduling order. The APA expressly differentiates between orders and rules, as it defines an ''order'' to mean a ''final disposition, whether affirmative, negative, injunctive, or declaratory in form, of an agency *in a matter other than rule making.*'' [22] The specific language chosen by Congress indicates its intent that DEA issue *orders* instead of proceeding by rulemaking when temporarily scheduling substances. Given that Congress specifically requires the Administrator (as delegated by the Attorney General) to follow rulemaking procedures for *other* kinds of scheduling actions, *see* 21 U.S.C. 811(a), it is noteworthy that, in section 811(h), Congress authorized the issuance of temporary scheduling actions by order rather than by rule.

Alternatively, even if this action was subject to section 553 of the APA, the Administrator finds that there is good cause to forgo its notice-and-comment requirements, as any further delays in the process for issuing temporary scheduling orders would be impracticable and contrary to the public interest given the manifest urgency to avoid imminent hazards to public safety.

Although DEA believes this temporary scheduling order is not subject to the notice-and-comment requirements of section 553 of the APA, DEA notes that in accordance with 21 U.S.C. 811(h)(4), the Administrator took into consideration comments submitted by the Assistant Secretary in response to the notices that DEA transmitted to the Assistant Secretary pursuant to such subsection.

Further, DEA believes that this temporary scheduling action is not a ''rule'' as defined by 5 U.S.C. 601(2), and, accordingly, is not subject to the requirements of the Regulatory Flexibility Act. The requirements for the preparation of an initial regulatory flexibility analysis in 5 U.S.C. 603(a) are not applicable where, as here, DEA is not required by section 553 of the APA or any other law to publish a general notice of proposed rulemaking.

In accordance with the principles of Executive Orders (E.O.) 12866, 13563, and 14094, this action is not a significant regulatory action. E.O. 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects; distributive impacts; and equity). E.O. 13563 is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review as established in E.O. 12866. E.O. 12866, sec. 3(f), as amended by E.O. 14094, sec. 1(b), provides the definition of a ''significant regulatory action,'' requiring review by the Office of Management and Budget. Because this is not a rulemaking action, this is not a significant regulatory action as defined in Section 3(f) of E.O. 12866.

This action will not have substantial direct effects 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. Therefore, in accordance with E.O. 13132 (Federalism), it is determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Signing Authority

This document of the Drug Enforcement Administration was signed on December 7, 2023, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Scott Brinks,

Federal Register Liaison Officer, Drug Enforcement Administration.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, the DEA amends 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), 956(b), unless otherwise noted.

■ 2. In § 1308.11, add paragraphs (h)(62) to (h)(67) to read as follows:

§ 1308.11 Schedule I

* * * * *

(h) * * *

[21] 21 U.S.C. 811(h)(1).

[22] 5 U.S.C. 551(6) (emphasis added).

* * * * * * *

(62) Methyl 3,3-dimethyl-2-(1-(pent-4-en-1-yl)-1*H*-indazole-3-carboxamido)butanoate, its optical and geometric isomers, salts and salts of isomers (Other name: MDMB–4en–PINACA) 7090
(63) Methyl 2-[[1-(4-fluorobutyl)indole-3-carbonyl]amino]-3,3-dimethyl-butanoate, its optical and geometric isomers, salts and salts of isomers (Other names: 4F–MDMB–BUTICA; 4F–MDMB–BICA) 7091
(64) *N*-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(pent-4-en-1-yl)-1*H*-indazole-3-carboxamide, its optical and geometric isomers, salts and salts of isomers (Other name: ADB–4en–PINACA) 7092
(65) 5-Pentyl-2-(2-phenylpropan-2-yl)pyrido[4,3-b]indol-1-one, its optical and geometric isomers, salts and salts of isomers (Other names: CUMYL–PEGACLONE; SGT–151) 7093
(66) Ethyl 2-[[1-(5-fluoropentyl)indole-3-carbonyl]amino]-3,3-dimethyl-butanoate, its optical and geometric isomers, salts and salts of isomers (Other names: 5F–EDMB–PICA; 5F–EDMB–2201) 7094
(67) Methyl 2-(1-(4-fluorobenzyl)-1*H*-indole-3-carboxamido)-3-methyl butanoate, its optical and geometric isomers, salts and salts of isomers (Other name: MMB–FUBICA) 7095

[FR Doc. 2023–27243 Filed 12–11–23; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0949]

RIN 1625–AA00

Safety Zone; Kaneohe Bay, Oahu, HI—Navy P8 Aircraft Salvage Operations

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a 0.5 nautical mile radius temporary safety zone for navigable waters in Kaneohe Bay, HI encompassing the partially submerged Navy P8 aircraft. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by salvage operations of the Navy P8 aircraft. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Sector Honolulu.

DATES: This rule is effective without actual notice from December 12, 2023 through December 10, 2023. For the purposes of enforcement, actual notice will be used from December 2, 2023. This rule will be enforced each day it is in effect from 7 a.m. to 6 p.m. December 12, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2023–0949 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 Chief Petty Officer Bradley Lindsey, Waterways Management Division, U.S. Coast Guard Sector Honolulu; telephone 808–541–4363, *bradley.w.lindsey@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 and contrary to the public interest. The Coast Guard was unable to publish an NPRM and hold a reasonable comment period for this rulemaking due to the emergent nature and logistical coordination of salvage operations. It is impracticable to publish an NPRM because we must establish this safety zone by December 2, 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 to respond to remove the existing threat to the environment and safeguard against future potential threat to the environment as well as safety hazards associated with emergency salvage operations of the Navy P8 aircraft.

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 Sector Honolulu (COTP) has determined that potential hazards associated with emergency salvage operations starting December 2, 2023, will be a safety concern for anyone within a 0.5 nautical mile radius of the Navy P8 aircraft. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while salvage operations take place.

IV. Discussion of the Rule

This rule establishes a safety zone from 7 a.m. until 6 p.m. on December 2, 2023, through December 10, 2023. The Coast Guard is establishing a 0.5 nautical mile radius temporary safety zone for navigable waters in Kaneohe Bay, HI encompassing the partially submerged Navy P8 aircraft. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the aircraft is being salvaged. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a ''significant regulatory action,'' under 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, and duration, of the safety zone. Vessel traffic will be able to safely transit around this safety zone which would impact a small, designated area of the navigable waters Kaneohe Bay of Oahu, Hawaii, where vessel traffic is normally low. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 and publish a Marine Safety Information Bulletin (MSIB) on Homeport about 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 11 hours per day for 10 days that will prohibit entry within 0.5 nautical miles of vessels and machinery being used by personnel to salvage the Navy P8 aircraft. It is categorically excluded from further review under paragraph L60(d) 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.T14–0949 to read as follows:

§ 165.T14–0949 Safety Zone; Kaneohe Bay, Oahu, HI—Navy P8 Salvage Operations.

(a) *Location.* The following area is a safety zone: The Coast Guard is establishing a 0.5 nautical mile radius temporary safety zone for navigable waters in Kaneohe Bay, HI encompassing the partially submerged Navy P8 aircraft. This zone extends from the surface of the water to the ocean floor.

(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 Honolulu (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 at the command center at (808) 842–2600 or on VHF channel 16 (156.8 MHz). 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.

Dated: December 1, 2023.

A.L. Kirksey,

Captain, U.S. Coast Guard, Captain of the Port Sector Honolulu.

[FR Doc. 2023–27036 Filed 12–11–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0843]

RIN 1625–AA00

Safety Zone; Fireworks Display; Hood River, Hood River, Oregon

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of the Columbia River. This action is necessary to provide for the safety of life on these navigable waters near Hood River, Oregon, during a fireworks display on December 31, 2023. This regulation prohibits persons and vessels from entering the safety zone unless authorized by the Captain of the Port Sector Columbia River or a designated representative.

DATES: This rule is effective from 7:30 to 9 p.m. on December 31, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2023–0843 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 Lieutenant Carlie Gilligan, Waterways Management Division, Sector Columbia River, Coast Guard; telephone 503–240–9319, email *SCRWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

On August 15, 2023, the Hood River Fireworks, LLC notified the Coast Guard that it will be conducting a fireworks display from 8 to 8:30 p.m. on December 31, 2023. The fireworks are to be launched from Hood River Spit, approximately 1,000 feet south of the Columbia River in Hood River, OR. In response, on November 2, 2023, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zone; Fireworks Display; Hood River, Hood River, OR (88 FR 75244). There we stated why we issued the NPRM and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended December 4, 2023, we received 8 comments, that are discussed in section IV below.

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 to respond to the potential safety hazards associated with the fireworks display that will impact navigation along the Hood River.

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 Sector Columbia River (COTP) has determined that potential hazards associated with the fireworks to be used in this December 31, 2023, display will be a safety concern for anyone within a 1,000-foot radius of the barge. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received eight comments on our NPRM published November 2, 2023. Of them, six were in support of the proposed rule while the remaining two were unrelated to the establishment of the safety zone. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a safety zone from 7:30 to 9 p.m. on December 31, 2023. The safety zone will cover all navigable waters within 1,000 feet of the fireworks launch site in Hood River, OR. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 8 to 8:30 p.m. fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a ''significant regulatory action,'' under 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 regulated area. The safety zone impacts approximately a 1,000-foot area at the intersection of the Columbia and Hood Rivers and is not anticipated to exceed 1.5 hours in duration. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Moreover, under certain conditions vessels may still transit through the safety zone when permitted by the COTP. The Coast Guard will issue a Notice to Mariners about the zone, and the rule will 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 received no comments from the Small Business Administration

on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the 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 1.5 hours that will prohibit entry within 1,000 feet of a launch site in Hood River, OR. 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.T13–0843 to read as follows:

§ 165.T13–0843 Safety Zone; Fireworks Display, Hood River, Hood River, OR.

(a) *Location.* The following area is a safety zone: All navigable waters within 1,000 feet of a fireworks launch site in Hood River, OR. The fireworks launch site will be at the approximate point of 45°42′51.20″ N 121°30′32.18″ W.

(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 Columbia River (COTP) in the enforcement of the safety zone.

Participant means all persons and vessels registered with the event sponsor as a participant in the fireworks display.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, all non-participants 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 by calling (503) 209–2468 or the Sector Columbia River Command Center on Channel 16 VHF–FM. 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.

(3) The COTP will provide notice of the regulated area through advanced notice via broadcast notice to mariners and by on-scene designated representatives.

(d) *Enforcement period.* This section will be enforced from 7:30 to 9 p.m. on December 31, 2023. It will be subject to enforcement this entire period unless the COTP determines it is no longer needed, in which case the Coast Guard will inform mariners via Notice to Mariners.

Dated: December 5, 2023.

J.W. Noggle,

Captain, U.S. Coast Guard, Captain of the Port, Sector Columbia River.

[FR Doc. 2023–27090 Filed 12–11–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS–OZAR–36399; Docket No. NPS–2022–0001; PPMWOZARS0/PPMPSPD1Z.YM0000]

RIN 1024–AE62

Ozark National Scenic Riverways; Motorized Vessels

AGENCY: National Park Service, Interior

ACTION: Final rule.

SUMMARY: The National Park Service amends special regulations governing the use of motorized vessels within Ozark National Scenic Riverways. The changes will allow the use of 60/40 horsepower motors in the middle sections of the Current and Jacks Fork Rivers. The rule establishes seasonal closures in the upper sections of the rivers and limits the maximum horsepower of motorized vessels in other locations. These changes are slight modifications to restrictions on motorized vessels that have been in place since 1991.

DATES: This rule is effective January 11, 2024.

ADDRESSES:

Docket: The comments received on the proposed rule and an economic analysis are available on *www.regulations.gov* in Docket No. NPS–2022–0001.

Document Availability: The Final General Management Plan/Wilderness Study/Environmental Impact Statement (GMP/EIS), Record of Decision (ROD), and Errata Sheet to the GMP/EIS (Errata Sheet) provide information and context for this rule and are available online at *https://parkplanning.nps.gov/ozar,* by clicking on the link entitled ''General Management Plan, Wilderness Study, Environmental Impact Statement'' and then clicking the link entitled ''Document List.''

FOR FURTHER INFORMATION CONTACT: Lindel Gregory, Chief Ranger, Ozark National Scenic Riverways; (573) 323–4923; *lindel_gregory@nps.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:

Background

Purpose and Significance of Ozark National Scenic Riverways

Congress established Ozark National Scenic Riverways (the Riverways) in 1964 to conserve and interpret the scenic, natural, scientific, ecological, and historic values and resources within the Riverways, and to provide for public outdoor recreational use and enjoyment of those resources. 16 U.S.C. 460m. The Riverways includes portions of the Current and Jacks Fork rivers, encompassing 134 miles of clear, free-flowing, spring-fed waterways. The impressive hydrogeological character of the Riverways' karst landscape supports an amazing variety of natural features, including a spring system unparalleled in North America. The cave system is equally impressive with one of the highest densities of caves in any unit of the National Park System.

The Riverways lies within the Ozark Highlands, an important center of biodiversity in North America. The Ozark Highlands are home to a rich array of wildlife and plants, including endemic species that exist nowhere else in the world. The Current and Jacks Fork rivers have been designated as Outstanding National Resource Waters in Missouri. The Riverways features archeological and historic structures, landscapes, and objects, reflecting ancient life in the Ozark Highlands. The extraordinary resources of the Riverways provide outstanding recreational opportunities and experiences on and along free-flowing rivers.

Use of Motorized Vessels at the Riverways

One of the recreational opportunities at the Riverways is the use of motorboats on the Current and Jacks Fork rivers. When the Riverways was created in 1964, the only outboard motorboats operating on the rivers were conventional propeller-driven motors with elongated shafts. The propellers of these motors could hit bottom in shallow water, resulting in propeller damage. As a result, operators outfitted their motors with a lever that would lift the propeller out of the water when the vessel skimmed across shallow areas. This naturally limited the size of most motorboats operating on the rivers to 20 horsepower (hp) or less because heavier motors were too difficult to lift. The only exception was the lower Current River, which is broader and deeper than the upper reaches of the Current and Jacks Fork rivers. In this lower section of the Current River, motorboats up to 40 hp could operate.

The status quo changed in 1976 when operators began to refit outboard motors with jet propulsion systems that could operate in inches of water. This eliminated the need to have the skills and experience to lift the propeller out of shallow water. As a consequence, the number of motorboats in the Riverways increased dramatically. The smaller traditional motors and shaft propellers were replaced with large outboard jet motors, some exceeding 250 hp. These larger motors generated greater speed (some in excess of 50 miles per hour) and larger wakes, and required more space to operate. This resulted in safety concerns and conflicts with other users of the rivers, including canoers, tube floaters, swimmers, and anglers.

In order to address these concerns, in 1991 the National Park Service (NPS) revised the special regulations for the Riverways at 36 CFR 7.83(a) to designate zones for motorboat operation, restrict horsepower, and limit the use of motorboats during certain seasons (56 FR 30694). The NPS also limited the use of motorboats to vessels equipped with outboard motors. The nature of the shallow, narrow rivers precludes the safe use of inboard motors. These motors are capable of much greater speeds and need more water depth to operate due to increased weight.

Motor boating continues to be a popular activity and means of travel on the Current and Jacks Fork rivers. Visitors use motorboats to access fishing areas, cruise the river, and enjoy scenic views. Despite the existing regulations that manage motorboats within the Riverways, there are concerns about motorboats in certain sections of river. One concern is the effect of noise on visitors seeking a quiet experience. Another concern arises during the summer, when the number of motorboats on the rivers poses a safety hazard due to conflicts between different user groups competing for the same resources. Many access points along the rivers have become popular for concessioners and private individuals to launch nonmotorized watercraft, such as tubes, rafts, canoes, and kayaks. Often, groups of visitors seeking motorized and nonmotorized access enter the river at the same time and place, which can lead to congestion and conflicts. Once in the water, people in tubes, rafts, kayaks, and canoes can

be overwhelmed by the wakes of motorized vessels. Over the past 20 years, the number of visitors using nonmotorized vessels on the rivers has steadily increased. If this number continues to increase, so too will crowding and conflicts among user groups.

Summary of Public Comments

The NPS published a proposed rule in the **Federal Register** on January 5, 2022 (87 FR 413). The NPS accepted public comments on the proposed rule for 60 days via the mail, hand delivery, and the Federal eRulemaking Portal at *https://www.regulations.gov.* Comments were accepted through March 7, 2022. The NPS received 408 comments on the proposed rule. Comments generally focused on balancing appropriate visitor uses, types and levels of access, and desired resource conditions. Although many commenters agreed the rivers were too crowded and expressed concern about visitor behavior, there was no consensus about how the NPS should manage motorized vessels on the rivers. Many comments addressed the NPS's evaluation of the environmental impacts of the preferred and other alternatives in the GMP/EIS. These comments are not addressed in this final rule because they raise issues that the NPS already considered in the National Environmental Policy Act (NEPA) compliance process. The NPS evaluated the environmental impacts of each alternative in the GMP/EIS and explained why it selected the preferred alternative (Alternative B) in the ROD. The NPS did not identify any new significant environmental issues in the public comments on the proposed rule. After considering public comments and after additional review, the NPS made the following changes in the final rule.

1. In Table 1 to paragraph (b)(2), the NPS adjusted the northern boundary of the lower section on the Current River. This change will allow 150/105 hp motors from the lower end of the Van Buren Gap downstream to the southern boundary of the Riverways.

2. In Table 1 to paragraph (b)(2) and Table 2 to paragraph (b)(3), the NPS restated the geographic boundaries of the various sections of river as the ends of Van Buren and Eminence gaps, rather than as the intermediate boundaries of the Riverways at each gap. The NPS made these edits for clarity only; the edits did not change the actual boundaries of the sections of river.

3. In paragraph (b)(5), the NPS clarified that the designated access points do not mark the boundaries of the sections of river, which are identified in the tables. Instead, the final rule states that designated access points will have information about horsepower limits and seasonal closures in each section of river.

4. In paragraph (b)(7), the NPS added a statement that a violation of a restriction, condition, or closure implemented by the superintendent is prohibited.

5. In paragraph (b)(7), the NPS replaced a reference to paragraph (a) of 36 CFR 1.7 with a reference to section 1.7 in its entirety, to require that any restriction, condition, or closure on the use of motorized vessels that is established by the superintendent is included in the superintendent's compendium, as required by paragraph (b) of section 1.7.

A summary of the pertinent issues raised in the comments and NPS responses is provided below.

1. Comment: Several commenters objected to allowing motorized vessels anywhere in the Riverways. Some commenters argued that doing so violates the mandate in the NPS Organic Act that units of the National Park System be managed to conserve the scenery, natural and historic objects, and wild life in such manner and by such means as will leave them unimpaired for the enjoyment of future generations. 54 U.S.C. 100101.

NPS Response: Through the NPS Organic Act, Congress granted the NPS broad discretion to regulate activities within System units, and the NPS has concluded that the selected alternative in the ROD, as amended by the Errata, will not result in unacceptable impacts or an impairment of resources in the Riverways. When it established the Riverways, Congress directed the NPS to include provisions for the use and enjoyment of the Current and Jacks Fork rivers by the people of the United States. 16 U.S.C. 460m. The NPS believes that continuing to allow motorized vessels on the Current and Jacks Fork rivers, as managed by this rule, is consistent with the NPS Organic Act and the enabling act for the Riverways.

2. Comment: Some commenters asked the NPS to eliminate the seasonal closures. Others suggested that the NPS allow only trolling motors in the upper sections during peak season. Several commenters objected to any prohibition of motorized vessels on the entire length of the Current and Jacks Fork rivers at any time. Some of these commenters cited long-standing use of motorized vessels on the rivers and access they provide for subsistence by local residents through gigging, fishing, trapping, and hunting. Another commenter suggested the NPS revise the definition of ''peak season'' to allow motorized vessels to continue to operate on the Jacks Fork River into early May when water levels remain high enough and there are fewer floaters on the rivers.

NPS Response: The NPS believes this rule appropriately balances different types of recreation and access on the rivers by managing the power and location of motorized vessels. The seasonal closures on the upper sections of each river will create a quieter and safer recreational experience for visitors, as explained in the section-by-section analysis below. Although trolling motors are quieter and operate at lower speeds than gasoline-powered motors, they still create enough wake and potential for conflict with non-motorized uses to justify including them in the prohibition of all motorized use during peak season. They also utilize a propeller, which is ineffective in shallow areas of the upper stretches of the rivers and therefore limits their usefulness.

The NPS acknowledges there are strong cultural ties to gigging and trapping in the upper sections of the Current and Jacks Fork rivers. To accommodate these activities, the rule allows jet boats with engines rated up to 25 hp at the power head from the beginning of gigging season through the end of the statewide spring trapping season on public lands, as established by the Missouri Department of Conservation. For the 2024 season, those dates are September 1 through April 1. Rather than choose a fixed date each calendar year, aligning the rule with statewide gigging and spring trapping seasons will ensure that the use of motorized vessels has meaning for local residents.

While water levels are generally higher on the upper Jacks Fork River in the spring, this also is when that stretch becomes more heavily used by non-motorized vessels because water levels during the remainder of the year typically prevent floating activities.

3. Comment: Several commenters encouraged the NPS to establish a lower, more protective horsepower limit on the rivers, consistent with other federally protected rivers in the Ozarks, such as the Buffalo National River (limit of 10 hp) and the Eleven Point Wild and Scenic River (limit of 25 hp).

NPS Response: All federally protected rivers, such as the Current River, Jacks Fork River, Buffalo River, and Eleven Point River, must be managed in accordance with the laws establishing their protected status. Within the scope of these mandates, however, Federal agencies have discretion to establish

rules for visitor use that are tailored to the characteristics of each river, such as size, location, cultural and natural resources present, and visitor use patterns. The combination of these characteristics is unique to each river, even if some rivers share similar traits. The horsepower limits established by this rule are consistent with the legal protections for the Current and Jacks Fork rivers found in the NPS Organic Act and the Riverways' enabling legislation, and will allow for diverse opportunities for river-based recreation and access. Lower horsepower limits on the upper sections of each river will help avoid conflicts between motorized and non-motorized uses that can lead to undesirable visitor experiences and unsafe outcomes. Increasing horsepower limits downriver correlate to less frequent and less concentrated non-motorized use and changing physical characteristics of the rivers, such as increasing width and depth, that can better accommodate the speed and wake created by larger motors.

4. Comment: One commenter suggested lowering the maximum horsepower in the middle sections of the Current and Jacks Fork rivers. Another commenter recommended prohibiting motorboats in the entire length of the Jacks Fork River during peak season. Several commenters stated the 150/105 hp limit below Big Spring on the Current River is too high and suggested the 60/40 hp limit be extended to the southern boundary of the Riverways. Other commenters asked the NPS to prohibit motorboats on various segments of the Current River. Commenters advocating for lower horsepower or no motorboats at all claimed that the wakes generated by faster, larger motors and the size of vessels equipped with those motors diminish the visitor experience and pose a greater safety risk to floaters compared to vessels with smaller motors. Other commenters stated that higher-powered vessels are loud, damage park resources, increase bank erosion, reduce water clarity, and negatively affect aquatic wildlife.

NPS Response: Alternative A in the GMP/EIS would have limited horsepower on the middle section of the Current River to 25 hp from Round Spring to Two Rivers, and prohibited motorboats on that segment of the river during peak season. Alternative A would have prohibited motorboats on the upper section of the Current River. It would have limited horsepower to 40 hp from Two Rivers to the southern boundary of the Riverways on the Current River, and prohibited motorboats year-round on the Jacks Fork River. The GMP/EIS did not evaluate an alternative that would have prohibited motorboats on the middle or lower sections of the Current River. The NPS believes that doing so would create significant adverse impacts to visitor access and recreation in the Riverways. The alternatives in the GMP/EIS were developed over several years through an iterative process that incorporated public input and new information at every step. The NPS evaluated potential impacts to the environment for each of the alternatives in the GMP/EIS and explained its decision to select Alternative B in the ROD.

5. Comment: One commenter expressed concern that the seasonal closure on the upper section of the Current River would prevent persons with disabilities from using motorized vessels to enjoy the river.

NPS Response: The NPS welcomes visitors of all types to the Riverways, including individuals with disabilities. The use of motorized vessels on the rivers is one of many recreational opportunities in the Riverways. In meeting the goal of accessibility, the NPS seeks to ensure that persons with disabilities are afforded experiences and opportunities along with other visitors to the extent practicable. For example, under the selected alternative in the ROD, the NPS will establish additional trails in the Riverways that are accessible to persons with disabilities. In 2021, the NPS completed an Accessibility Self-Evaluation and Transition Plan with specific targets for improving visitor accessibility at a variety of facilities, campsites, and program experiences.

6. Comment: Several commenters objected to the provision establishing the superintendent's authority to close sections of the rivers.

NPS Response: Superintendents of all National Park System units have a general authority to establish closures, restrictions and conditions on visitor use or activity under 36 CFR 1.5. This rule will specify that—with respect to the use of motorized vessels in the Riverways—the superintendent may restrict or impose conditions on the use of motorized vessels, or close any portion of the Riverways, after taking into consideration public safety, protection or park resources, weather conditions and park management objectives. This provision establishes that the superintendent may take action to address changing conditions on the rivers to help protect resources and keep visitors safe. The superintendent needs this management tool because dynamic river environments can create unforeseen conditions that need to be addressed quickly. The superintendent may not increase visitor use and activity on the rivers in a manner that goes beyond what is authorized by the rule. As examples, the superintendent may not increase the maximum horsepower of motorized vessels beyond what is stated in the rule, or allow motorized vessels on the upper sections of the rivers year-round. These types of changes would require amendments to the regulations following a public notice-and-comment rulemaking process. Similarly, if the superintendent determines that closures, restrictions and conditions implemented to address unforeseen conditions should be made permanent, the NPS should then amend the regulations in 36 CFR 7.83 to reflect those actions following a public rulemaking process.

The rule requires the superintendent to notify the public of any restrictions, conditions or closures to motorized vessels in accordance with 36 CFR 1.7, which includes publication of such actions in a written compilation that is referred to as the superintendent's compendium. The superintendent's compendium is available on the Riverway's website at *https://www.nps.gov/ozar/index.htm.*

7. Comment: One commenter suggested the NPS prohibit all motors with internal combustion engines and allow electric trolling motors only.

NPS Response: Electric trolling motors provide sufficient power and range to support certain types of motorized use on the rivers, such as drift fishing or moving boats for limited distances against the current. These types of motors, however, are not a reasonable alternative to gasoline-powered engines that are commonly used in johnboats for recreational purposes. Prohibiting gasoline-powered motors would result in a significant loss of recreational opportunities in the Riverways that the NPS did not consider in the planning process.

8. Comment: Several commenters stated that the 150 hp limit below Big Spring unnecessarily excludes a segment of the fishing and boating population and creates an undue burden on people who own vessels with larger horsepower motors. These commenters would allow unlimited horsepower in the lower section of the Current River. Several commenters questioned the correlation between maximum horsepower and wake. For example, some commenters asserted there is no difference in the wake created by jet boats with a 200 hp motors and 150 hp motors. One commenter stated that higher horsepower engines provide

greater control and therefore a safer environment.

NPS Response: The NPS explains the reason for establishing a horsepower limit in the lower section of the Current River in the section-by-section analysis below. Many motors that exceed 150 hp are heavier, operated at higher speeds, and need more area to operate, which can create conflicts between other motorized and non-motorized vessels.

9. Comment: Several commenters stated a single horsepower limit throughout the rivers would be easier to communicate with visitors and easier to enforce, especially with limited law enforcement officers. Other commenters stated there is a need for increased law enforcement on the rivers to manage increased visitation and to enforce the seasonal closures and horsepower restrictions in the rule. In particular, one commenter suggested the use of cameras to monitor vessel operations as an aid to enforcement.

NPS Response: A single horsepower limit would be easier to communicate and enforce. The relative difficulty of understanding and enforcing the rules, however, is not the only factor the NPS must consider when deciding how to manage motorized vessels. The selected alternative (Alternative B) calls for the NPS to hire additional law enforcement officers in order to improve visitor compliance with regulations. The NPS has 14 commissioned officers working varied shifts to support law enforcement activities throughout the Riverways. All of them are trained to enforce violations on the rivers. NPS law enforcement officers work closely with the Missouri Water Patrol and the sheriff's departments of surrounding counties to coordinate law enforcement activities. These agencies support law enforcement efforts by communicating violations that are reported or observed within the Riverways. The NPS utilizes cameras for a multitude of law enforcement activities, which may include enforcement of horsepower or other boating regulations.

10. Comment: Several commenters recommended the NPS install signs on the rivers that identify the upper, middle, and lower sections and the closures and horsepower restrictions that apply in each section.

NPS Response: Designated boat access points will be signed with information about horsepower limits and seasonal closures, so that anyone launching at designated sites will be aware of the rules. Installing signs at the actual boundaries of each section of river, which do not correlate to designated access points in every case, is problematic due to challenging riverbank terrain and the tendency for signs to be lost or damaged in floods. Maps indicating the horsepower limits in the various sections of the rivers will be located at the Riverways headquarters in Van Buren, MO, and on the Riverways website.

11. Comment: One commenter suggested the NPS establish decibel and speed limits for motorized vessels.

NPS Response: Existing regulations address the noise and speed on vessels in the Riverways. NPS regulations at 36 CFR 3.15 limit the noise of vessels operating in all System units to 75 dB(A) measured using test procedures applicable to vessels underway (Society of Automotive Engineers SAE—J1970), or 88dB(A) measured using test procedures applicable to stationary vessels (Society of Automotive Engineers SAE—J2005). This section also authorizes NPS law enforcement officers to direct the operator of a vessel to submit the vessel to an on-site test to measure noise level.

Under 36 CFR 3.2(b), the NPS adopts certain State laws that restrict the speed of motorized vessels. Missouri law prohibits the operation of a vessel in excess of slow, no wake speed within 100 feet of a dock or any emergency vessel that has emergency lights displayed. Mo. Rev. Stat. §§ 306.125, 306.132. Missouri law also prohibits operating a motorboat in excess of 30 mph at any time from a half-hour after sunset until one hour before sunrise. Mo. Rev. Stat. § 306.125. NPS regulations at 36 CFR 3.8(b)(4) prohibit operating a vessel in excess of flat wake speed within 100 feet of a downed water skier, a person swimming, wading, fishing from shore or floating with the aid of a flotation device, a designated launch site, or from a manually propelled, anchored or drifting vessel. Speed also is a factor that can result in a violation of NPS regulations at 36 CFR 3.8(b)(8)–(9), which prohibit operating a vessel in a negligent or grossly negligent manner.

12. Comment: Several commenters opposed the seasonal closures on the upper sections of both rivers due to concerns that they would create economic hardship for local users, including fisherman and their families.

NPS Response: The NPS does not expect the seasonal closures to impact many visitors because of the physical characteristics of the upper sections of both rivers. The narrow and shallow nature of these sections prevents heavy motorized use, which the NPS believes to be approximately 5% of total visitation in those areas. The rule allows motorized vessels on the upper sections during State-defined trapping and gigging seasons so that local residents may continue to engage in those traditional activities for economic and recreational purposes. Fishing from riverbanks and while wading are allowed and popular on the upper stretches of the rivers where water is shallow.

13. Comment: Several commenters encouraged the NPS to move the northern boundary of the lower section of the Current River to allow 150/105 hp motors from the lower end of the Van Buren Gap to the southern boundary of the Riverways. Commenters stated that this change would allow visitors to launch bigger motors at the public and private launch sites in Van Buren, therefore decreasing pressure at Big Spring. Commenters also stated that this change would benefit residents who live along the river outside of the Riverways but within the Van Buren Gap, who own larger motors and keep their boats docked along the bank throughout the summer.

NPS Response: The NPS agrees with this recommendation and has changed the rule accordingly. The Errata Sheet amends the GMP/EIS to reflect the change to the northern boundary of the lower section of the Current River, which the NPS believes will make the horsepower limits easier to understand and enforce, and will relieve parking pressure on the Big Spring boat ramp.

14. Comment: One commenter suggested the NPS restrict the size of vessels rather than limit horsepower.

NPS Response: The NPS believes that limiting horsepower will achieve the desired result in the GMP/EIS and be easier to enforce than measuring boat size. NPS regulations at 36 CFR 3.8(a)(4) authorize superintendents of all System units to establish length and width restrictions in accordance with 36 CFR 1.5 and 1.7. If, in the future, the superintendent of the Riverways determines that length and width restrictions are necessary for the maintenance of public health and safety, protection of environmental or scenic values, protection of natural or cultural resources, aid to scientific research, implementation of management responsibilities, equitable allocation and use of facilities, or the avoidance of conflict among visitor use activities, the superintendent may establish such restrictions in the superintendent's compendium for the Riverways.

15. Comment: Several commenters suggested the NPS manage motorized vessels by limiting them to certain days of the week. One commenter suggested that motorized vessels should be allowed on the upper section of the Current River on weekdays, but not

weekends, to provide access to local residents without contributing to overcrowding at peak times.

NPS Response: The rule prohibits motorized vessels on the upper sections of both rivers during peak season to help maintain the safety of visitors and relieve overcrowding throughout the week. The volume of non-motorized vessels remains high on weekdays during peak season.

16. Comment: Some commenters stated that education was preferable to regulation and supported more public education about boating safety. One commenter asked the NPS to require all visitors who engage in water-based recreation take a water safety class. Another commenter suggested that commercial visitor service providers educate seasonal floaters about water etiquette and rules of navigation.

NPS Response: Boating and floating safety information courses are available through the Missouri Water Patrol, United States Coast Guard, and other organizations. The NPS provides educational information to floaters through authorized concessions and through public programs and interactions, as well as the on the Riverways website.

17. Comment: One commenter recommended the NPS manage use of the rivers by determining the number of visitors from each user group (*e.g.,* motorized, non-motorized) that can be accommodated in different river locations. Other commenters recommended a permit system to manage motorized and non-motorized recreational use and suggested limits on the number of people that commercial outfitters can put into the rivers in specific locations on specific days.

NPS Response: Managing visitor use in the Riverways is inherently complex and depends not only on the number of visitors, but also on where the visitors go, what they do, and the impacts they have on resources and other visitors. In managing visitor use, NPS staff rely on a variety of management tools and strategies rather than relying solely on regulating the number of people in a specific area. Ever-changing visitor use patterns require a deliberate and adaptive approach to visitor capacity and visitor use management that would be hindered by placing strict limits on the number of user types in specific locations.

The NPS may develop an education outreach program to encourage voluntary dispersal of river users to reduce the number of watercraft in popular areas. The NPS may evaluate and modify concession contracts or operating plans to better distribute and manage the number of watercraft, both across times of day and by physical location. NPS staff also may consider a shuttle system to further disperse use on the rivers. Finally, if needed to ensure compliance with standards, the NPS may require watercraft permits. Implementation of some of these management actions may require additional planning, compliance and public involvement.

Final Rule

Summary

This rule will help accommodate a variety of desired river conditions and recreational uses, promote high quality visitor experiences, promote visitor safety, and minimize conflicts among different user groups. It does this by making the following changes to existing regulations.

Measuring Horsepower

Existing regulations, established in 1991, limit the horsepower of motorized vessels for the purpose of limiting the size and speed of motorized vessels to help ensure a safe and enjoyable experience for all visitor types. Larger motors generate greater speed, larger wakes, and require more space in proportion to their speed. The very nature of the shallow, narrow rivers, and channel and flow characteristics preclude the safe operation and navigation of oversized motorboats around obstacles and other users in certain sections of the Current and Jacks Fork rivers. Various combinations of channel depth and stream velocity sometimes require boaters to maintain sufficient momentum to get across the shallows, and into deeper waters, which poses a particular safety hazard to other visitors such as floaters and swimmers. Additionally, most vessels used on the Current and Jacks Forks rivers are not equipped with speedometers and are therefore unable to gauge their own speeds. Further, depending on whether a boat is traveling downstream or upstream, speedometers may not accurately gauge speed of travel. For these reasons, horsepower limits on outboard motors are the most effective means to ensure safety and achieve compliance.

Horsepower can be measured at the engine powerhead and at the final output. These measurements are virtually the same for outboard motors equipped with propellers. For motors equipped with jet propulsion systems, horsepower is approximately 30 percent less at the final output than at the powerhead. For purposes of complying with the horsepower limits, the existing regulations state that horsepower will be based upon power output at the propeller shaft as established by the manufacturer. 36 CFR 7.83(a)(2). This method of measuring power works well for motors with propellers that have not been modified to change final power output. This method is problematic, however, for motors that were manufactured with propellers but then retrofitted with jet propulsion systems that lower the final power output below the maximum horsepower that was established by the manufacturer at the propeller shaft. These types of motors are popular with visitors to the Riverways because they can operate in shallow waters and enable the use of longer and wider boats capable of transporting four or more adults against the current of the rivers. The problem is that the existing regulations prohibit many of these motors even though they have a final power output less than or equal to the maximum horsepower that the NPS has determined is appropriate. In this way, the regulations are overinclusive.

For example, the existing regulations prohibit the use of motors that exceed 40 hp in the middle sections of the Current and Jacks Fork rivers. 36 CFR 7.83(a)(3)(i). The most popular type of motors in these sections are known as 60/40 hp motors. This indicates that the motors produce 60 hp at the powerhead but only 40 hp at the final output because they are equipped with a jet propulsion system. Some of these motors were manufactured with propellers and rated at 60 hp by the manufacturer, only to be retrofitted with jets. Others were manufactured with jet propulsion systems and for this reason could be rated at either 60 hp or 40 hp depending upon where the manufacturer measured the power. Under the existing regulations, retrofitted motors rated by the manufacturer at 60 hp are prohibited even though they now only have 40 hp of usable power. The method of measurement in the existing regulations is impracticable for vessels manufactured with jet propulsion systems because there was never a propeller shaft. In order to address this unintended outcome, the NPS has allowed 60/40 hp motors in the Riverways since 1999 under a Superintendent's memorandum.

This rule officially allows these popular motors in the middle sections of each river. The rule clarifies that, for purposes of complying with the regulations, maximum horsepower means the maximum horsepower

produced by the engine's powerhead.[1] The rule states that this measurement may be different than the maximum power measured at the final output or the maximum power rated by the manufacturer. The rule then adds tables that include maximum horsepower limits on each river that differ depending upon whether the motor has a jet propulsion system or a propeller. For the middle sections, 60 hp will be allowed for jet motors but only 40 hp will be allowed for propeller motors.

In the upper sections of the rivers, existing regulations prohibit the use of motors that exceed 25 hp measured at the propeller shaft by the manufacturer. 36 CFR 7.83(a)(3)(ii). In practice, the NPS has allowed 25 hp motors in the upper sections only if they are equipped with jet propulsion systems that lower the effective horsepower to 18 hp at the final output. The narrow and shallow nature of the upper sections make motors with more powerful outputs unsafe throughout the year. The rule changes the regulations to be consistent with this practice by allowing 25 hp motors with an attached jet unit and 18 hp motors fitted with a propeller.

Seasonal Closures on the Upper Sections of River

Existing regulations allow 10 hp motors in the upper section of the Current River from May 1 through September 15, and in the upper section on the Jacks Fork River from March 1 to the Saturday before Memorial Day. 36 CFR 7.83(a)(3)(iii)–(iv). This rule prohibits motorized vessels in these sections during peak season. This includes vessels using only a trolling motor. This closure applies to the full extent of the upper sections of each river, from the northern boundary downstream to Round Spring on the Current River, and from the western boundary downstream to the western boundary of the Eminence Gap on the Jacks Fork River. Existing regulations apply the seasonal 10 hp limit above Akers Ferry on the Current River and above Bay Creek on the Jacks Fork River, even though during off-peak seasons the 25 hp limits on the upper sections of each river apply downstream to Round Spring on the Current River, and from the western boundary downstream to the boundary at West Eminence on the Jacks Fork River.

Peak season is defined as beginning on the day after the last day of the statewide spring trapping season on public lands (usually around April 1) and ending on the day before the first day of gigging season for nongame fish (usually around September 15). These dates are determined annually by the Missouri Department of Conservation. Defining peak season in this manner, rather than using fixed dates, would allow visitors to use motorboats for lawful trapping and gigging activities without interfering with nonmotorized vessels (*e.g.,* tubes, rafts, kayaks and canoes) when they are most popular. These upper sections of river are very narrow and shallow and do not receive heavy use from motorized vessels even during trapping and gigging seasons. A nonmotorized season provides opportunities for solitude and connection with nature that are not currently available during weekends and holidays in the summer. Visitors will be able to intimately experience conditions reminiscent of those that existed when the Riverways was established. The seasonal closures will also eliminate safety concerns and conflicts that arise when motorized and nonmotorized user groups are both present in these areas.

Maximum Horsepower Limit on the Lower Section of River

Existing regulations do not impose a horsepower limit on the lower section of the Current River. The rule establishes new horsepower limits in this section. The rule allows motors with propellers up to 105 hp. For the same reason that 60 hp motors will be allowed in the middle sections of the Current and Jacks Fork rivers if they are equipped with jet propulsion systems, the rule will allow 150 hp motors in the lower section of the Current River if they are similarly equipped. These limits are higher than the limits that will apply in the upper and middle sections of the rivers because the river below Big Spring is much broader and deeper. Currently, vessels with 225–300 hp motors are operating in this section of river. Motors such as these that are larger than the limits of 150/105 hp generate greater speed (some in excess of 50 mph), larger wakes, and require more space to operate. This results in serious safety concerns and conflicts with other users of the river, including canoers, tube floaters, swimmers, and anglers.

Other Changes

The rule revises § 7.83(a)(1) of the existing special regulations to clarify that motorized vessels on the Riverways may have only one outboard motor. The rule clarifies that the motor count does not include electric trolling motors, which could accompany a vessel with a single outboard motor. For clarity, the revisions define the terms ''inboard motor'' and ''outboard motor'' and state that the use of inboard motors and personal watercraft is prohibited.

The rule allows the Superintendent to issue a permit for the operation of vessels with motors more powerful than the horsepower limits established by the rule. This allows the Superintendent to make exceptions in limited circumstances, such as when the NPS issues permits to the Missouri Department of Conservation for research activities on the rivers that, for safety or other reasons, require more power than is allowed by the rule.

The rule also includes a provision establishing the Superintendent's authority to restrict or impose conditions on the use of motorized vessels, or close any portion of the Riverways to motorized vessels, after taking into consideration public safety, protection or park resources, weather conditions and park management objectives, provided public notice is given using one or more of the methods identified in 36 CFR 1.7. This clarifies the Superintendent's authority to respond to emerging technologies or other unforeseen circumstances in order to help maintain a safe and enjoyable experience for visitors to the Riverways.

Notice of Horsepower Restrictions

Maps indicating the horsepower limits in the various portions of the rivers will be located at Riverways headquarters in Van Buren, MO and on the Riverways' website (*https://www.nps.gov/ozar/index.htm*). The Superintendent will notify the public of the start and end dates for peak season through one or more of the methods listed in 36 CFR 1.7. The rule also adds a table to the special regulations that identifies each section of river and the applicable horsepower restrictions for that section during peak and non-peak seasons.

Compliance With Other Laws, Executive Orders, and Department Policy

Regulatory Planning and Review (Executive Orders 12866, 13563, and 14094)

Executive Order 12866, as amended by Executive Order 14094, provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 14094 amends Executive Order 12866 and reaffirms the principles of Executive Order 12866 and Executive Order 13563 and states that regulatory analysis should facilitate

[1] This is consistent with the International Council of Marine Industry Association's Standard 28–83.

agency efforts to develop regulations that serve the public interest, advance statutory objectives, and be consistent with Executive Order 12866, Executive Order 13563, and the Presidential Memorandum of January 20, 2021 (Modernizing Regulatory Review). Regulatory analysis, as practicable and appropriate, shall recognize distributive impacts and equity, to the extent permitted by law.

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

Regulatory Flexibility Act (RFA)

This rule will not have a significant economic effect on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). This certification is based on the cost-benefit and regulatory flexibility analyses found in the report entitled ''Draft Cost-Benefit and Regulatory Flexibility Threshold Analyses: Special Regulations Governing the Use of Motorized Vessels within Ozark National Scenic Riverways'' that can be found on the Riverways' planning website at *https://parkplanning.nps.gov/ozar,* by clicking the link entitled ''General Management Plan, Wilderness Study, Environmental Impact Statement'' and then clicking the link entitled ''Document List.''

Congressional Review Act (CRA)

This rule is not a major rule under 5 U.S.C. 804(2), the CRA. This rule:

(a) Does not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act (UMRA)

This rule does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or Tribal governments or the private sector. It addresses public use of NPS-administered waters, and imposes no requirements on other agencies or governments. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

This rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630. Access to private property adjacent to the Riverways will not be affected by this rule. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. The rule is limited in effect to Federal lands managed by the NPS and would not have a substantial direct effect on State and local government. A Federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Paperwork Reduction Act (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act of 1969 (NEPA)

The rule implements a portion of the preferred alternative (Alternative B) for the Riverways described in the GMP/EIS. The NPS released a draft of the GMP/EIS that was available for public review and comment from November 8, 2013, through February 7, 2014. The NPS released the final GMP/EIS in December 2014. On January 22, 2015, the Acting Regional Director, Midwest Region, signed the ROD identifying the preferred alternative as the selected action. In January 2023, the NPS issued the Errata Sheet, which amended the GMP/EIS to move the northern boundary of the lower section on the Current River. The GMP/EIS describes the purpose and need for the plan, the alternatives considered, the scoping process and public participation, the affected environment and environmental consequences, and consultation and coordination. Copies of the GMP/EIS, ROD and Errata Sheet are available online at *https://parkplanning.nps.gov/ozar,* by clicking the link entitled ''General Management Plan, Wilderness Study, Environmental Impact Statement'' and then clicking the link entitled ''Document List.''

Consultation With Indian Tribes (Executive Order 13175 and Department Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and Tribal sovereignty. The NPS has evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and has determined that it has no substantial direct effects on federally recognized Indian Tribes and that consultation under the Department's Tribal consultation policy is not required.

The NPS consulted with culturally affiliated American Indian Tribes on the development of the GMP/EIS, including meetings in Oklahoma and Missouri in 2003, 2006, 2010. The NPS invited all Tribal representatives to visit the Riverways and to actively participate in the GMP/EIS planning process. As part of ongoing government-to-government relations, NPS staff will continue to consult with affiliated Tribes about planning and other actions in the Riverways that could affect the Tribes. NPS staff will further consult with regard to specific actions and undertakings arising from the GMP/EIS that are proposed for future implementation. When appropriate, NPS staff provide technical assistance to the Tribes, including sharing

information and resources, to address problems and issues of mutual concern.

Effects on the Energy Supply (Executive Order 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. The rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy, and the Administrator of OIRA has not designated the rule as a significant energy action. A Statement of Energy Effects is not required.

List of Subjects in 36 CFR Part 7

National Parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service amends 36 CFR part 7 as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

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

Authority: 54 U.S.C. 100101, 100751, 320102; Sec. 7.96 also issued under D.C. Code 10–137 and D.C. Code 50–2201.07.

■ 2. In § 7.83:
■ a. Redesignate paragraphs (a) through (e) as paragraphs (b) through (f);
■ b. Add a new paragraph (a); and
■ c. Revise newly designated paragraph (b).

The addition and revision read as follows:

§ 7.83 Ozark National Scenic Riverways.

(a) *Definitions.* The following definitions apply to this section only:

Inboard motor means a marine propulsion system that is enclosed within the hull of the vessel.

Maximum horsepower means the maximum horsepower produced by the engine's powerhead. This measurement may be different than the maximum horsepower at the final output or the maximum horsepower rated by the manufacturer.

Off-peak season means anytime that is not during peak season.

Outboard motor means a marine propulsion system that is mounted on the exterior of the vessel's hull.

Peak season means a period of time:

(i) Beginning on the day after the last day of the statewide spring trapping season on public lands, as determined by the Missouri Department of Conservation; and

(ii) Ending on the day before the first day of gigging season for nongame fish, as determined by the Missouri Department of Conservation.

(b) *Restrictions for motorized vessels.* (1) The following actions are prohibited on waters situated within the boundaries of Ozark National Scenic Riverways:

(i) Operating a motorized vessel with more than one outboard motor, not including an electric trolling motor.

(ii) Operating a motorized vessel with an inboard motor.

(iii) Operating a personal watercraft.

(2) The use of a motorized vessel is allowed on the Current River according to the seasonal restrictions and maximum horsepower limits set forth in table 1 to paragraph (b)(2).

TABLE 1 TO PARAGRAPH (b)(2)

	Section of river	Maximum horsepower during peak season	Maximum horsepower during off-peak season
Current River	*Upper Section:* Northern boundary of the Riverways downstream to Round Spring.	Motorized vessels prohibited	25 hp (motor with jet unit); 18 hp (motor with propeller).
	Middle Section: Round Spring downstream to the upper (northern) end of the Van Buren Gap.	60 hp (motor with jet unit); 40 hp (motor with propeller).	60 hp (motor with jet unit); 40 hp (motor with propeller).
	Lower Section: Lower (southern) end of the Van Buren Gap downstream to the southern boundary of the Riverways.	150 hp (motor with jet unit); 105 hp (motor with propeller).	150 hp (motor with jet unit); 105 hp (motor with propeller).

(3) The use of a motorized vessel is allowed on the Jacks Fork River according to the seasonal restrictions and maximum horsepower limits set forth in table 2 to paragraph (b)(3).

TABLE 2 TO PARAGRAPH (b)(3)

	Section of river	Maximum horsepower during peak season	Maximum horsepower during off-peak season
Jacks Fork River	*Upper Section:* Western boundary of the Riverways downstream to the upper (western) end of Eminence Gap.	Motorized vessels prohibited	25 hp (motor with jet unit); 18 hp (motor with propeller).
	Middle Section: Lower (eastern) end of the Eminence Gap downstream to Two Rivers.	60 hp (motor with jet unit); 40 hp (motor with propeller).	60 hp (motor with jet unit); 40 hp (motor with propeller).

(4) The maximum horsepower limits in this section may be exceeded pursuant to a written permit issued by the Superintendent.

(5) Maps indicating the horsepower limits in the various sections of the rivers are located at park headquarters in Van Buren, MO, and on the Ozark National Scenic Riverways website. Signs at designated access points will have information about horsepower limits and seasonal closures in the

upper, middle, and lower sections of river. The Superintendent will notify the public of the designated access points in accordance with § 1.7 of this chapter.

(6) Operating a motorized vessel in a manner not allowed by this paragraph (b) is prohibited.

(7) The Superintendent may restrict or impose conditions on the use of motorized vessels, or close any portion of the Riverways to motorized vessels, after taking into consideration public safety, protection or park resources, weather conditions and park management objectives. The Superintendent will provide notice of any such action in accordance with § 1.7 of this chapter. A violation of any such restriction, condition, or closure is prohibited.

* * * * *

Matthew J. Strickler,

Deputy Assistant Secretary Exercising the Delegated Authority of the Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2023–27168 Filed 12–11–23; 8:45 am]

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LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 385

[Docket No. Docket No. 23–CRB–0014–PR–COLA (2024)]

Cost of Living Adjustment to Royalty Rates and Terms for Making and Distributing Phonorecords

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Final rule; cost of living adjustment.

SUMMARY: The Copyright Royalty Judges announce a cost of living adjustment (COLA) in the royalty rates for the statutory license for making and distributing phonorecords of nondramatic musical works regarding physical phonorecords and Permanent Downloads.

DATES:

Effective date: December 12, 2023.

Applicability date: These rates and terms are applicable during the period from January 1, 2024, through December 31, 2024.

FOR FURTHER INFORMATION CONTACT: Anita Brown, Program Specialist, (202) 707–7658, *crb@loc.gov.*

SUPPLEMENTARY INFORMATION: Section 115 of the Copyright Act, title 17 of the United States Code, creates a statutory license for making and distributing phonorecords of nondramatic musical works. On December 16, 2022, the Copyright Royalty Judges (Judges) adopted final regulations that set rates and terms applicable for the statutory license for making and distributing phonorecords of nondramatic musical works. *See* 87 FR 76942.

Pursuant to those regulations, at least 25 days before January 1 of each year, the Judges shall publish in the **Federal Register** notice of a cost of living adjustment (COLA) applicable to the royalty fees for making and distributing physical phonorecords and Permanent Downloads. 37 CFR 385.11.

The royalty fee shall be adjusted to reflect any changes occurring in the cost of living as determined by the most recent Consumer Price Index for All Urban Consumers (U.S. City Average, all items) (CPI–U) published by the Secretary of Labor before December 1 of the preceding year. The calculation of the rate for each year shall be cumulative based on a calculation of the percentage increase in the CPI–U from the CPI–U published in November, 2022 (the Base Rate) and shall be made according to the following formulas: for the per-work rate, (1 + (Cy − Base Rate)/Base Rate) × 12¢, rounded to the nearest tenth of a cent; for the per-minute rate, (1 + (Cy − Base Rate)/Base Rate) × 2.31¢, rounded to the nearest hundredth of a cent; where Cy is the CPI–U published by the Secretary of Labor before December 1 of the preceding year. 37 CFR 385.11(a)(2).

List of Subjects in 37 CFR Part 385

Copyright, Phonorecords, Recordings.

Final Regulations

In consideration of the foregoing, the Judges amend part 385 of title 37 of the Code of Federal Regulations as follows:

PART 385—RATES AND TERMS FOR USE OF NONDRAMATIC MUSICAL WORKS IN THE MAKING AND DISTRIBUTING OF PHYSICAL AND DIGITAL PHONORECORDS

■ 1. The authority citation for part 385 continues to read as follows:

Authority: 17 U.S.C. 115, 801(b)(1), 804(b)(4).

■ 2. Section 385.11 is amended by revising paragraph (a)(1) to read as follows:

§ 385.11 Royalty fees for the public performance of sound recordings and the making of ephemeral recordings.

(a) * * *

(1) *2024 rate.* For the year 2024 for every physical phonorecord and Permanent Download the Licensee makes and distributes or authorizes to be made and distributed, the royalty rate payable for each work embodied in the phonorecord or Permanent Download shall be either 12.40 cents or 2.39 cents per minute of playing time or fraction thereof, whichever amount is larger.

* * * * *

Dated: December 7, 2023.

David P. Shaw,

Chief Copyright Royalty Judge.

[FR Doc. 2023–27290 Filed 12–8–23; 11:15 am]

BILLING CODE 1410–72–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AP86

Active Service Pay

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) amends its adjudication regulations to permit VA to adjust disability compensation payments under certain circumstances upon receipt of notice from the Department of Defense (DoD) that the veteran has received or is receiving active service pay. The effect of this action is to reduce overpayments and erroneous payments associated with receipt of VA disability compensation and DoD active service pay by allowing VA to make necessary adjustments as close in time to the receipt of active service pay as possible. Additionally, the amendments will allow VA to resume payments discontinued due to receipt of active service pay based on information received from DoD. The amendments will also clarify how VA adjudicates benefit adjustments based on a veteran's receipt of active service pay for certain types of service.

DATES: *Effective Date:* This rule is effective January 11, 2024.

FOR FURTHER INFORMATION CONTACT: Robert Parks, Chief, Regulations Staff (211C), Compensation Service (21C), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–9540. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: On April 19, 2019, VA published a proposed rule in the **Federal Register** at 84 FR 16421 to amend 38 CFR 3.103 and 3.654 to permit VA to suspend disability compensation payments upon receipt of

notice from DoD that the veteran has received or is receiving active service pay and to clarify how VA adjudicates benefit adjustments based on receipt of active service pay for certain types of service. Section 5304(c) of title 38, United States Code, provides that pension, compensation, or retirement pay shall not be paid for any period in which a veteran receives active service pay. Currently, VA cannot take immediate action on DoD-provided information but rather must provide a veteran with notice of a proposed adverse action—such as suspension of disability compensation payments—and 60 days to provide evidence showing why the adverse action should not be taken. VA continues to pay benefits during this 60-day period. This becomes problematic for some veterans on active duty serving in remote locations, such as a combat zone or similarly austere environments, with infrequent mail service and no reasonable method for dealing with financial matters. As a result of this rulemaking, VA will be able to leverage technological advancements and process benefit adjustments based upon information received from DoD regarding a veteran's receipt of active service pay under certain circumstances, described in more detail below.

VA invited interested persons to submit written comments on or before June 18, 2019. VA received four comments in response to the proposed rule. VA received comments from two organizations, National Organization of Veterans' Advocates, Inc. (NOVA) and Disabled American Veterans (DAV), and two members of the public. Some comments addressed more than one issue. In those instances, VA reviewed and considered each issue independently. VA also grouped all of the issues raised by the commenters that concerned at least one portion of the rule together by topic. VA organized the responses to the comments by topic. The responses to the comments are as follows:

I. Remove Reference to Prospective Receipt of Pay

Two comments requested the removal of the phrase ''will receive active service pay,'' in the proposed regulatory text in 38 CFR 3.103(b)(3)(v). One commenter asserted that suspending compensation based on notice that a veteran will receive active service pay is inconsistent with 38 U.S.C. 5304(c). The commenter also contended that active duty dates could change, or receipt of active service pay could be delayed, potentially creating a situation where a veteran has his/her compensation suspended but does not receive active service pay. The other commenter asserted that including the language ''will receive active service pay'' increases the risk that someone will have benefits suspended before he or she is actually receiving active service pay.

Concerning notice from DoD, VA clarifies that DoD will not inform VA of prospective active service pay, only past and current pay. VA revises § 3.103(b)(3)(v) to clarify that veterans can submit notice concerning past, current, and future receipt of active service pay, and DoD notice will only pertain to past or current receipt of active service pay. Accordingly, changes will not be made on the basis of notice of prospective pay from DoD.

Concerning notice provided to VA by a veteran, VA will continue to take action, without any advance notice period, based on statements by a veteran indicating that the veteran will receive active service pay. Payments, however, are discontinued effective the day preceding reentrance on active duty, not as of the date of receipt of the notice. If a veteran informs VA prior to the discontinuance of payments that the dates of service have changed or the veteran will no longer return to service, VA will make the necessary adjustments prior to the discontinuance if time allows and will otherwise reinstate benefits the same day they were discontinued. In the case of training pay, benefits are withheld for the number of training days in the relevant time period. If a veteran provides timely notice that pay was not received for expected training duty, retroactive payments will be authorized. 38 CFR 3.654(c). Therefore, VA does not agree that dispensing with the 60-day notice period in this situation is inconsistent with 38 U.S.C. 5304(c), which precludes concurrent receipt of VA compensation and active service pay.

II. Expedited Review

One comment recommended that VA provide an expedited review process for veterans who allege error in the suspension of compensation benefits based on notice of receipt of active service pay. VA points out that, due to the Veterans Appeals Improvement and Modernization Act of 2017, Public Law 115–55, veterans who disagree with a decision by VA have options including requesting a higher-level review if additional evidence is not needed to resolve the matter or filing a supplemental claim if additional evidence is needed. VA's goal for completing higher-level reviews and supplemental claims is 125 days. Therefore, there are avenues for review of such allegations of errors to receive expeditious processing in the current claims processing framework. VA makes no changes based on this comment.

III. General

VA received two general comments that were not associated with preventive efforts to reduce the financial burden on veterans of overpayments due to concurrent receipt of both VA disability compensation and DoD active service pay. One commenter expressed disagreement with the proposed rule, stating that veterans should be compensated more, not less. This rulemaking affects the process for making necessary adjustments based on receipt of active service pay, not the amount of compensation to which a veteran is entitled. Section 5304(c) of title 38, United States Code, clearly precludes concurrent receipt of VA compensation and active service pay. VA does not have authority to ignore this statutory command in order to provide veterans additional compensation. The commenter also discussed concerns for veterans with mental health symptoms. VA makes no changes based on this comment as it is beyond the scope of this rulemaking.

The other comment consisted of a consent agreement from a banking institution without any accompanying text describing why the document was submitted as a comment or how it pertains to active service pay. This comment is not relevant to the rule amendment; therefore, VA makes no changes based on this comment.

IV. Resuming Payments Based on DoD Notice

Based on further agency consideration, VA makes additional changes to the proposed rule. VA proposed amendments to allow VA to suspend disability compensation payments based on notice from DoD of receipt of active service pay, explaining that the regulatory change would reduce the financial impact on veterans associated with receipt of VA disability compensation and DoD active service pay as well as reducing the reporting burden on veterans in cases where VA receives information directly from DoD. 84 FR 16421 (April 19, 2019). VA also explained that VA and DoD were discussing changes to the way VA receives notification that a veteran has received active service pay. 84 FR at 16423. VA has determined that, in addition to discontinuing payments based on DoD notice under certain circumstances, described in more detail below, it will be possible in many cases

to resume payments based on information received from DoD. This will reduce the reporting burden on veterans in cases where VA receives information directly from DoD. There may be cases, however, where VA does not receive timely notice of a veteran's release from active duty or active duty for training from DoD. Therefore, VA revises 38 CFR 3.654(b)(2) to allow VA to resume payments based on notice from DoD that a veteran has been released from active duty or active duty for training while maintaining the option for the veteran to inform VA of such release by filing a claim to recommence payments. If VA receives notice from DoD or a claim for recommencement of payments within one year from the date of release from active duty or active duty for training, payments, if otherwise in order, will be resumed effective the day following release. Otherwise, payments will be resumed effective one year prior to the date of receipt of a new claim. Resuming payments based on notice from DoD is consistent with VA's goal, described in the proposed rule, of minimizing the financial impact and reporting burdens for veterans resulting from the prohibition on concurrent receipt of VA benefits and active service pay. VA therefore considers resuming benefit payments based on notice from DoD to be a logical outgrowth of the proposed rule. We emphasize that VA considers the automatic resumption of payments based on DoD notice to generally be a liberalizing change that should generally expedite access to benefits and reduce the need for administrative action on the part of both the veteran and VA.

As a corollary to this change, VA has added language clarifying that a claim for increase must be filed in order for additional benefits to be paid. This is not a change to existing requirements, as the relevant statute and regulation tie the effective date of an award of increased compensation to the date of receipt of claim. 38 U.S.C. 5110(b)(3); 38 CFR 3.400(o)(2). Rather, VA included the clarification as a reminder that, even if VA resumes payments based on receipt of notice from DoD that a veteran has been released from service, the veteran must still file a claim for increase if he or she seeks an increased rating.

In a similar manner, VA has revised the language regarding resumption of compensation payments to reflect that the resumption will be based on the combined evaluation in effect at the time payments were discontinued. If a reduction in disability evaluation is warranted that would not lower the combined evaluation, the reduction may be processed at the same time as the resumption of payments, as the overall payment will not be affected. If VA determines that a reduction in evaluation is warranted that would lower the combined evaluation, the reduction will be governed by 38 CFR 3.105(e), after payments are resumed at the level previously in effect. This will ensure that veterans receive notice of any proposed reductions to the compensation in effect at the time payments were discontinued, even if resumption of payments is based on notice from DoD.

V. Addressing Concerns About Notice

Upon additional review it was determined that the proposed rule conflicted with the Privacy Act, specifically 5 U.S.C. 552a(p), which requires notice to an individual prior to an agency taking adverse action as a result of information produced by a matching program. To address this conflict, we have amended the rule so that VA will only suspend compensation based on information from DoD without additional advance notice when the veteran has previously received 30-day advance notice addressing concurrent receipt of compensation and payment for the type of service at issue as well as notice that suspension of compensation payments based on subsequent payments for the same type of service will be made without additional advance notice. We have also specified that in cases to which 38 CFR 3.700(a)(1)(iii) applies, in order for the exception to advance notice contained in § 3.103(b)(3)(v) to apply, VA must have received a waiver of VA benefits. A one-time advance notice with respect to the first instance of double payments would provide clear notice of the basis for the suspension of compensation payments, and an opportunity to contest the findings that led to the suspension, and could be applied to all subsequent payments of the same benefit during periods of receipt of active service pay for the same type of service. This change satisfies the notice requirements of the Privacy Act, and in particular 5 U.S.C. 552a(p)(1)(C)(ii), while still achieving the modernizing, pro-veteran goals of the proposed rule. While this solution will not eliminate the initial overpayment to an individual receiving both active service pay and disability compensation, it will eventually result in a dramatic decrease in the overall number of overpayments while providing each individual with the due process intended by the notice requirement. VA believes it is clear this result is a logical outgrowth of the proposed rule.

The proposed rule would have allowed for suspension of compensation without advance notice to the veteran based on information from DoD as long as the veteran had received prior notice that receipt of active service pay precludes concurrent receipt of VA benefits or VA had received a statement from the veteran indicating knowledge of such preclusion. The final rule will only allow for suspension of compensation without advance notice based on information from DoD if the veteran also received, on a previous occasion of concurrent receipt of compensation and payment for the type of service at issue, advance notice of the suspension and notice that suspension of compensation payments based on subsequent payments for the same type of service would be made without additional advance notice. In other words, the final rule provides greater protection to the individual, in terms of the suspension of running compensation payments. *See Veterans Justice Grp., LLC* v. *Sec'y of Veterans Affairs,* 818 F.3d 1336, 1344–45 (Fed. Cir. 2016) (finding a final rule that adopted a different, but more liberal approach than the proposed rule to be a logical outgrowth of the proposed rule).

We have updated the language in 38 CFR 3.103(b)(3)(v) to ensure that a written or electronic statement provided to VA by a veteran is consistently referred to as a statement. We have also updated the reference in 38 CFR 3.654(b)(2) to the second period of service, replacing that term with the most recent period of service, as veterans may have more than two periods of service. Finally, we made stylistic changes in 38 CFR 3.654, replacing references to ''1 year'' with ''one year.'' This document adopts as a final rule the proposed rule published in the **Federal Register** on April 19, 2019 with changes as set forth below.

Executive Orders 12866, 13563 and 14094

Executive Order 12866 (Regulatory Planning and Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits,

reducing costs, harmonizing rules, and promoting flexibility. Executive Order 14094 (Executive Order on Modernizing Regulatory Review) supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in Executive Order 12866 of September 30, 1993 (Regulatory Planning and Review), and Executive Order 13563 of January 18, 2011 (Improving Regulation and Regulatory Review). The Office of Information and Regulatory Affairs has determined that this rulemaking is not a significant regulatory action under Executive Order 12866, as amended by Executive Order 14094. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at *www.regulations.gov.*

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601–612). The factual basis for this certification is based on based on the fact that no small entities or businesses make decisions regarding payments or overpayments of VA service-connected disability compensation. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This final rule includes provisions constituting a revised collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) that require approval by the Office of Management and Budget (OMB). Accordingly, under 44 U.S.C. 3507(d), the collection of information for OMB is assigned control number 2900–0463, and must be paired with this rulemaking action for OMB review and approval.

There are no provisions associated with this rulemaking constituting any new collection of information, but there are anticipated burden changes to the existing collection of information. The respondent population for VA Form 21–8951–2 is composed of individuals filing a waiver of either VA disability benefits or military pay and allowances. VA currently batch sends pre-populated, optional forms to those identified as possible dual recipients and receives back approximately 12.4% for manual processing (71% are electronically processed without a form after notice and expiration of the due process period and the remaining 16.6% cannot be processed by the batch program due to expired addresses, returns to active duty, death, etc.). VA expects this process to continue unchanged for 1–2 years (with a simultaneous communication plan to spread knowledge of the new program), then the number of batch forms being mailed will significantly decrease due to the number of veterans who have responded (currently 12.4%) and who will no longer receive the initial letter with the VA Form 21–8951–2, with a concomitant reduction in the burden.

VA estimates the total annual reporting and recordkeeping burden to be 207 hours. (Estimated 1,240 respondents × (multiplied by) 10 (burden minutes)/(divided by) 60 = 207 burden hours.) VA estimates the total information collection burden cost to be $6,160.32 per year (207 burden hours × $29.76 per hour). The Bureau of Labor Statistics (BLS) gathers information on full-time wage and salary workers. According to the latest available BLS data, the mean hourly wage is $29.76 based on the BLS wage code—''00–0000 All Occupations.'' This information was taken from the following website: *https://www.bls.gov/oes/current/oes_nat.htm.*

The currently approved OMB control number 2900–0463 burden costs are $65,293.44 (2,194 burden hours × $29.76 per hour). The projected annual burden savings from implementation of this regulation are $55,655.87.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Veterans.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved and signed this document on December 6, 2023, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Jeffrey M. Martin,

Assistant Director, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR part 3 as set forth below:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

■ 1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

■ 2. Amend § 3.103 by revising paragraph (b)(3)(v) and adding a cross reference paragraph to the end of the section to read as follows:

§ 3.103 Procedural due process and other rights.

* * * * *

(b) * * *

(3) * * *

(v) An adverse action based upon a written or electronic statement provided to VA by a veteran that indicates that the veteran has received, is in receipt of, or will receive active service pay as defined by § 3.654(a), or, in the case of compensation, written or electronic notice from the Department of Defense that indicates that the veteran has received or is in receipt of active service pay as defined by § 3.654(a), provided that, in cases involving notice from the Department of Defense, the veteran has on a previous occasion of concurrent receipt of compensation and payment for the type of service at issue received the notice described in paragraph (b)(2), but with a period of 30 rather than 60 days to respond, as well as notice that suspension of compensation payments based on subsequent payments for the same type of service will be made without additional advance notice. The statement from the veteran or notice from the Department of Defense must include the date on which the service resulting in receipt of active service pay began or, in the case of a statement from the veteran, the date on which the service resulting in receipt of active service pay is expected to begin, or, in the case of training duty, the number of training days performed, or, in the case

of a statement from the veteran, the number of training days expected to be performed, during a specified period of time (*e.g.,* last month, last quarter, last year, next month, etc.). In order for this paragraph to apply, the veteran must have received prior notice that receipt of active service pay precludes concurrent receipt of VA benefits, or VA must have received a statement from the veteran that indicates knowledge of such preclusion. In cases to which § 3.700(a)(1)(iii) of this part applies, the Veteran must also have waived VA benefits. When notice provided by the Department of Defense contains information indicating that the monthly level of disability compensation for a veteran exceeds the veteran's monthly active service pay rate, the exception contained in this paragraph will only apply to a written or electronic statement provided to VA by the veteran.

* * * * *

Cross References: Submission of statements or information affecting entitlement to benefits. See § 3.217(a). Active Service Pay. See § 3.654. General. See § 3.700(a)(1).

■ 3. Amend § 3.654 by revising paragraphs (b) and (c) and adding an authority citation to read as follows:

§ 3.654 Active service pay.

* * * * *

(b) *Active duty or active duty for training.* (1) Where the veteran receives active service pay as a result of returning to active duty status or active duty for training as described in § 3.6(c), with the exception of annual active duty for training typically performed 15 days each year by reservists and members of the National Guard and Active Duty for Special Work to receive training (see paragraph (c) of this section), the award will be discontinued effective the day preceding reentrance into active duty or active duty for training status. If the exact date is not known, payments will be discontinued effective date of last payment, and the effective date of discontinuance will be adjusted to the day preceding reentrance when the date of reentrance has been ascertained from the service department.

(2) Payments, if otherwise in order, will be resumed effective the day following release from active duty or active duty for training if notice from the Department of Defense of such release or a claim for recommencement of payments is received within one year from the date of such release; otherwise, payments will be resumed effective one year prior to the date of receipt of a new claim. Prior determinations of service connection will not be disturbed except as provided in § 3.105. Compensation will be resumed based on the combined evaluation in effect at the time payments were discontinued. If a reduction in evaluation that lowers the combined evaluation is considered warranted, the provisions of § 3.105(e) will apply. If a disability is incurred or aggravated, or a service-connected disability worsens in the most recent period of service, compensation for that disability or increase in disability cannot be paid unless a claim therefor is filed.

(c) *Training duty.* Prospective adjustment of awards may be made where the veteran waives his or her Department of Veterans Affairs benefit covering anticipated receipt of active service pay because of expected periods of active duty for training (annual active duty for training typically performed 15 days each year by reservists and members of the National Guard or Active Duty for Special Work to receive training) or inactive duty training. Where readjustment is in order because service pay was not received for expected training duty, retroactive payments may be authorized if a claim for readjustment is received within one year after the end of the fiscal year for which payments were waived.

Authority: (Authority: 38 U.S.C. 501(a) and 5304(c).)

[FR Doc. 2023–27176 Filed 12–11–23; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 61

[EPA–R09–OAR–2023–0512; FRL–11463–01–R9]

Update to the Addresses and Agency Names for Region IX and Air Quality Agencies: Arizona; California; Hawaii; Nevada.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: The Environmental Protection Agency (EPA) is amending its regulations to update addresses and names of air quality agencies in EPA Region IX. This action is editorial in nature and is intended to provide accuracy and clarity to EPA's regulations.

DATES: This rule is effective December 12, 2023.

ADDRESSES: EPA Region IX, Air and Radiation Division, 75 Hawthorne Street, San Francisco, California, 94105.

FOR FURTHER INFORMATION CONTACT: Kira Wiesinger, EPA Region IX. By phone: (415) 972–3827 or by email at *wiesinger.kira@epa.gov*.

SUPPLEMENTARY INFORMATION: This rule makes editorial changes to various environmental regulations in title 40 of the Code of Federal Regulations (CFR) to update addresses and names for air quality agencies in EPA Region IX. It does not otherwise impose or amend any requirements. Pursuant to 5 U.S.C. 533 (b)(3)(B) of the Administrative Procedure Act (APA), the EPA has found that the public notice and comment provisions of the APA, found at 5 U.S.C. 553(b), do not apply to this rulemaking as public notice and comment is unnecessary because this amendment to the regulations provides only technical changes to update an address or name of air quality agencies. The EPA has also determined that there is good cause to waive the requirement of publication 30 days in advance of the rule's effective date pursuant to 5 U.S.C. 553(d)(3) in order for the public to have the correct addresses and names for air quality agencies in EPA Region IX. As this action updates the CFR and does not otherwise impose or amend any requirements, the EPA has determined it does not trigger any requirements of the statutes and Executive Orders that govern rulemaking procedures. This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Parts 60 and 61

Administrative practice and procedure, Reporting and recordkeeping requirements.

Dated: December 5, 2023.

Martha Guzman Aceves,

Regional Administrator, Region IX.

For the reasons stated in the preamble, the Environmental Protection Agency amends title 40 of the Code of Federal Regulations as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for part 60 continues to read as follows:

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

Subpart A—General Provisions

§ 60.4 [Amended]

■ 2. In § 60.4, revise the entry for ''Region IX'' in paragraph (a) and revise paragraphs (b)(4), (6), (13), and (30) to read as follows:

§ 60.4 Address.

(a) * * *

Region IX (Arizona, California, Hawaii and Nevada; the territories of American Samoa and Guam; the Commonwealth of the Northern Mariana Islands; the territories of Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Atoll, Palmyra Atoll, and Wake Islands; and certain U.S. Government activities in the freely associated states of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau): Director, Enforcement and Compliance Assurance Division (ENF 2–1), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

* * * * *

(b) * * *

(4) Arizona:

Arizona Department of Environmental Quality, Suite #160, 1110 West Washington Street, Phoenix, AZ 85007.

Maricopa County Air Quality Department, 301 West Jefferson Street, Phoenix, AZ 85003.

Pima County Department of Environmental Quality, 33 North Stone Avenue, Suite 700, Tucson, AZ 85701.

Pinal County Air Quality Department, 31 North Pinal Street, Building F, Florence, AZ 85132.

Note 1 to paragraph (b)(4): For tables listing the delegation status of agencies in Region IX, see paragraph (d) of this section.

* * * * *

(6) California:

Amador Air District, 810 Court Street, Jackson, CA 95642.

Antelope Valley Air Quality Management District, 2551 W Avenue H, Lancaster, CA 93536.

Bay Area Air Quality Management District, 375 Beale Street, Suite 600, San Francisco, CA 94105.

Butte County Air Quality Management District, 629 Entler Avenue, Suite 15, Chico, CA 95928.

Calaveras County Air Pollution Control District, 891 Mountain Ranch Road, Building E, San Andreas, CA 95249.

Colusa County Air Pollution Control District, 100 Sunrise Blvd., Suite A, Colusa, CA 95932–3246.

El Dorado County Air Quality Management District, 330 Fair Lane, Placerville, CA 95667–4100.

Eastern Kern Air Pollution Control District, 2700 ''M'' Street, Suite 302, Bakersfield, CA 93301–2370.

Feather River Air Quality Management District, 541 Washington Avenue, Yuba City, CA 95991.

Glenn County Air Pollution Control District, 720 N Colusa Street, P.O. Box 351, Willows, CA 95988–0351.

Great Basin Unified Air Pollution Control District, 157 Short Street, Bishop, CA 93514–3537.

Imperial County Air Pollution Control District, 150 South Ninth Street, El Centro, CA 92243–2839.

Lake County Air Quality Management District, 2617 S Main St., Lakeport, CA 95453–5405.

Lassen County Air Pollution Control District, 720 South St., Susanville, CA 96130.

Mariposa County Air Pollution Control District, P.O. Box 5, Mariposa, CA 95338.

Mendocino County Air Quality Management District, 306 E Gobbi Street, Ukiah, CA 95482–5511.

Modoc County Air Pollution Control District, 202 W 4th Street, Alturas, CA 96101.

Mojave Desert Air Quality Management District, 14306 Park Avenue, Victorville, CA 92392–2310.

Monterey Bay Air Resources District, 24580 Silver Cloud Court, Monterey, CA 93940.

North Coast Unified Air Quality Management District, 707 L Street, Eureka, CA 95501–3327.

Northern Sierra Air Quality Management District, 200 Litton Drive, Suite 320, Grass Valley, CA 95945–2509.

Northern Sonoma County Air Pollution Control District, 150 Matheson Street, Healdsburg, CA 95448–4908.

Placer County Air Pollution Control District, 110 Maple Street, Auburn, CA 95603.

Sacramento Metropolitan Air Quality Management District, 777 12th Street, Suite 300, Sacramento, CA 95814–1908.

San Diego County Air Pollution Control District, 10124 Old Grove Road, San Diego, CA 92131–1649.

San Joaquin Valley Air Pollution Control District, 1990 E Gettysburg, Fresno, CA 93726.

San Luis Obispo County Air Pollution Control District, 3433 Roberto Court, San Luis Obispo, CA 93401–7126.

Santa Barbara County Air Pollution Control District, 260 North San Antonio Road, Suite A, Santa Barbara, CA 93110–1315.

Shasta County Air Quality Management District, 1855 Placer Street, Suite 101, Redding, CA 96001–1759.

Siskiyou County Air Pollution Control District, 525 So. Foothill Drive, Yreka, CA 96097–3036.

South Coast Air Quality Management District, 21865 Copley Drive, Diamond Bar, CA 91765–4182.

Tehama County Air Pollution Control District, P.O. Box 1169 (1834 Walnut Street), Red Bluff, CA 96080–0038.

Tuolumne County Air Pollution Control District, 2 South Green St., Sonora, CA 95370–4618.

Ventura County Air Pollution Control District, 4567 Telephone Road, 2nd Floor, Ventura, CA 93003–5417.

Yolo-Solano Air Quality Management District, 1947 Galileo Court, Suite 103, Davis, CA 95618.

Note 2 to paragraph (b)(6): For tables listing the delegation status of agencies in Region IX, see paragraph (d) of this section.

* * * * *

(13) Hawaii:

Clean Air Branch, Hawaii Department of Health, 2827 Waimano Home Road, #130 Pearl City, HI 96782.

Note 4 to paragraph (b)(13): For tables listing the delegation status of agencies in Region IX, see paragraph (d) of this section.

* * * * *

(30) Nevada:

Nevada Division of Environmental Protection, 901 South Stewart Street, Suite 4001, Carson City, NV 89701–5249.

Clark County Division of Air Quality, 500 S Grand Central Parkway, 1st Floor, P.O. Box 555210, Las Vegas, NV 89155–5210.

Northern Nevada Public Health, Air Quality Management Division, 1001 E 9th Street, Building B, Reno, NV 89512.

Note 7 to paragraph (b)(30): For tables listing the delegation status of agencies in Region IX, see paragraph (d) of this section.

* * * * *

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

■ 3. The authority citation for part 61 continues to read as follows:

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

Subpart A—General Provisions

§ 61.04 [Amended]

■ 4. In § 61.04, revise the entry for ''Region IX'' in paragraph (a) and revise paragraphs (b)(4), (6), (13), and (30) to read as follows:

§ 61.04 Address.

(a) * * *

Region IX (Arizona, California, Hawaii and Nevada; the territories of

American Samoa and Guam; the Commonwealth of the Northern Mariana Islands; the territories of Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Atoll, Palmyra Atoll, and Wake Islands; and certain U.S. Government activities in the freely associated states of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau): Director, Enforcement and Compliance Assurance Division (ENF 2–1), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

* * * * *

(b) * * *

(4) Arizona:

Arizona Department of Environmental Quality, Suite #160, 1110 West Washington Street, Phoenix, AZ 85007.

Maricopa County Air Quality Department, 301 West Jefferson Street, Phoenix, AZ 85003.

Pima County Department of Environmental Quality, 33 North Stone Avenue, Suite 700, Tucson, AZ 85701.

Pinal County Air Quality Department, 31 North Pinal Street, Building F, Florence, AZ 85132.

Note 1 to paragraph (b)(4): For tables listing the delegation status of agencies in Region IX, see paragraph (c)(9) of this section.

* * * * *

(6) California:

Amador Air District, 810 Court Street, Jackson, CA 95642.

Antelope Valley Air Quality Management District, 2551 W Avenue H, Lancaster, CA 93536.

Bay Area Air Quality Management District, 375 Beale Street, Suite 600, San Francisco, CA 94105.

Butte County Air Quality Management District, 629 Entler Avenue, Suite 15, Chico, CA 95928.

Calaveras County Air Pollution Control District, 891 Mountain Ranch Road, Building E, San Andreas, CA 95249.

Colusa County Air Pollution Control District, 100 Sunrise Blvd., Suite A, Colusa, CA 95932–3246.

El Dorado County Air Quality Management District, 330 Fair Lane, Placerville, CA 95667–4100.

Eastern Kern Air Pollution Control District, 2700 ''M'' Street, Suite 302, Bakersfield, CA 93301–2370.

Feather River Air Quality Management District, 541 Washington Avenue, Yuba City, CA 95991.

Glenn County Air Pollution Control District, 720 N Colusa Street, P.O. Box 351, Willows, CA 95988–0351.

Great Basin Unified Air Pollution Control District, 157 Short Street, Bishop, CA 93514–3537.

Imperial County Air Pollution Control District, 150 South Ninth Street, El Centro, CA 92243- 2839.

Lake County Air Quality Management District, 2617 S Main St., Lakeport, CA 95453–5405.

Lassen County Air Pollution Control District, 720 South St., Susanville, CA 96130.

Mariposa County Air Pollution Control District, P.O. Box 5, Mariposa, CA 95338.

Mendocino County Air Quality Management District, 306 E Gobbi Street, Ukiah, CA 95482–5511.

Modoc County Air Pollution Control District, 202 W 4th Street, Alturas, CA 96101.

Mojave Desert Air Quality Management District, 14306 Park Avenue, Victorville, CA 92392–2310.

Monterey Bay Air Resources District, 24580 Silver Cloud Court, Monterey, CA 93940.

North Coast Unified Air Quality Management District, 707 L Street, Eureka, CA 95501–3327.

Northern Sierra Air Quality Management District, 200 Litton Drive, Suite 320, Grass Valley, CA 95945–2509.

Northern Sonoma County Air Pollution Control District, 150 Matheson Street, Healdsburg, CA 95448–4908.

Placer County Air Pollution Control District, 110 Maple Street, Auburn, CA 95603.

Sacramento Metropolitan Air Quality Management District, 777 12th Street, Suite 300, Sacramento, CA 95814–1908.

San Diego County Air Pollution Control District, 10124 Old Grove Road, San Diego, CA 92131–1649.

San Joaquin Valley Air Pollution Control District, 1990 E Gettysburg, Fresno, CA 93726.

San Luis Obispo County Air Pollution Control District, 3433 Roberto Court, San Luis Obispo, CA 93401–7126.

Santa Barbara County Air Pollution Control District, 260 North San Antonio Road, Suite A, Santa Barbara, CA 93110–1315.

Shasta County Air Quality Management District, 1855 Placer Street, Suite 101, Redding, CA 96001–1759.

Siskiyou County Air Pollution Control District, 525 So. Foothill Drive, Yreka, CA 96097–3036.

South Coast Air Quality Management District, 21865 Copley Drive, Diamond Bar, CA 91765–4182.

Tehama County Air Pollution Control District, P.O. Box 1169 (1834 Walnut Street), Red Bluff, CA 96080–0038.

Tuolumne County Air Pollution Control District, 2 South Green St., Sonora, CA 95370–4618.

Ventura County Air Pollution Control District, 4567 Telephone Road, 2nd Floor, Ventura, CA 93003–5417.

Yolo-Solano Air Quality Management District, 1947 Galileo Court, Suite 103, Davis, CA 95618.

Note 2 to paragraph (b)(6): For tables listing the delegation status of agencies in Region IX, see paragraph (c)(9) of this section.

* * * * *

(13) Hawaii:

Clean Air Branch, Hawaii Department of Health, 2827 Waimano Home Road, #130 Pearl City, HI 96782.

Note 4 to paragraph (b)(13): For tables listing the delegation status of agencies in Region IX, see paragraph (c)(9) of this section.

* * * * *

(30) Nevada:

Nevada Division of Environmental Protection, 901 South Stewart Street, Suite 4001, Carson City, NV 89701–5249.

Clark County Division of Air Quality, 500 S Grand Central Parkway, 1st Floor, P.O. Box 555210, Las Vegas, NV 89155–5210.

Northern Nevada Public Health, Air Quality Management Division, 1001 E 9th Street, Building B, Reno, NV 89512.

Note 6 to paragraph (b)(30): For tables listing the delegation status of agencies in Region IX, see paragraph (c)(9) of this section.

* * * * *

[FR Doc. 2023–27141 Filed 12–11–23; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 23–285; RM–11959; DA 23–1134; FR ID 189736]

Television Broadcasting Services Jacksonville, Oregon

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Video Division, Media Bureau (Bureau), has before it a Notice of Proposed Rulemaking issued in response to a Petition for Rulemaking filed by the Dove Media, Inc. (Petitioner). The Petitioner requests the allotment of reserved noncommercial educational (NCE) channel *4 to Jacksonville, Oregon (Jacksonville), in

the Table of TV Allotments as the community's first local television service and its first NCE television service. The Petitioner filed comments in support of the petition, as required by the Commission's rules (rules), reaffirming its commitment to apply for channel *4 and if authorized, to construct the facility.

DATES: Effective January 11, 2024.

FOR FURTHER INFORMATION CONTACT: Emily Harrison, Media Bureau, at (202) 418–1665 or *Emily.Harrison@fcc.gov*.

SUPPLEMENTARY INFORMATION: The proposed rule was published at 88 FR 68557 on October 4, 2023. The Petitioner filed comments in support of the petition reaffirming its commitment to apply for channel *4. No other comments were received.

The Bureau believes the public interest would be served by allotting channel *4 at Jacksonville, which, as of the 2020 Census, has a population of 3,020 and clearly qualifies for community of license status for allotment purposes. Jacksonville has a mayor and six council members, as well as its own police, fire, public works, planning, and other government departments. Jacksonville also has an elementary school, historic district, and a chamber of commerce. The proposal would also result in a first local service to Jacksonville under the Commission's second allotment priority. The Petitioner demonstrates, and a staff engineering analysis confirms, that channel *4 can be allotted to Jacksonville consistent with the minimum geographic spacing requirements for new DTV allotments in section 73.623(d) of the rules, at 42°17′56″ N and 122°45′00″ W (allotment point). In addition, the allotment point complies with section 73.625(a)(1) of the rules as the entire community of Jacksonville is encompassed by the 35 dBμ contour.

This is a synopsis of the Commission's *Report and Order,* MB Docket No. 23–285; RM–11959; DA 23–1134, adopted December 5, 2023, and released December 5, 2023. The full text of this document is available for download at *https://www.fcc.gov/edocs.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to this proceeding.

The Commission will send a copy of this *Report and 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 in 47 CFR Part 73

Television.

Federal Communications Commission.

Thomas Horan,

Chief of Staff, Media Bureau.

Final Rule

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

PART 73—RADIO BROADCAST SERVICE

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

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

■ 2. In § 73.622, in paragraph (j), amend the Table of TV Allotments, under Oregon, by adding an entry for Jacksonville to read as follows:

§ 73.622 Digital television table of allotments.

* * * * *

(j) * * *

Community	Channel No.
* * * * *	
Oregon	
* * * * *	
Jacksonville	*4
* * * * *	

[FR Doc. 2023–27215 Filed 12–11–23; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 88, No. 237
Tuesday, December 12, 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 958

[Doc. No. AMS–SC–23–0033]

Onions Grown in Certain Designated Counties in Idaho and Malheur County, Oregon; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement a recommendation from the Idaho-Eastern Oregon Onion Committee (Committee) to increase the assessment rate established for the 2023–2024 and subsequent fiscal periods. The proposed assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by January 11, 2024.

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: Josh Wilde, Marketing Specialist, or Gary Olson, Chief, West Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326–2724, or Email: *Joshua.R.Wilde@usda.gov* or *GaryD.Olson@usda.gov*.

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. 130 and Marketing Order No. 958, both as amended (7 CFR part 958), regulating the handling of onions grown in certain counties in Idaho, and Malheur County, Oregon. Part 958 (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 Committee locally administers the Order and is comprised of producers and handlers of onions 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 reaffirms, supplements, and updates Executive Order 12866 and further directs agencies to solicit and consider input from a wide range of affected and interested parties through a variety of means. This proposed 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 Federal 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, Idaho-Eastern Oregon onion 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 Idaho-Eastern Oregon onions for the 2023–2024 fiscal period, 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 the U.S. Department of Agriculture (USDA) a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. 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.

This proposed rule would increase the assessment rate for Idaho-Eastern Oregon onions handled under the Order from $0.05 per hundredweight, the rate that was established for the 2015–2016 and subsequent fiscal periods, to $0.07 per hundredweight for the 2023–2024 and subsequent fiscal periods.

The Order authorizes the Committee, with the approval of AMS, to formulate an annual budget of expenses and

collect assessments from handlers to administer the program. The members of the Committee are familiar with the Committee's needs and with the costs of goods and services in their local area and are able to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting, and all directly affected persons have an opportunity to participate and provide input.

For the 2015–2016 and subsequent fiscal periods, the Committee recommended, and AMS approved, an assessment rate of $0.05 per hundredweight of Idaho-Eastern Oregon onions within the production area. That rate continues in effect from fiscal period to fiscal period until modified, suspended, or terminated by AMS upon recommendation and information submitted by the Committee or other information available to AMS.

The Committee met on June 27, 2023, and recommended 2023–2024 fiscal period expenditures of $1,039,785 and an assessment rate of $0.07 per hundredweight of Idaho-Eastern Oregon onions handled for the 2023–2024 and subsequent fiscal periods with a vote of 7 in favor and none opposed. In comparison, last fiscal period's budgeted expenditures were $819,435. The proposed assessment rate of $0.07 per hundredweight is $0.02 higher than the rate currently in effect. The Committee recommended increasing the assessment rate to more fully fund the Committee's operations without relying on its financial reserve funds. The Committee has drawn down its financial reserve in recent years to cover Committee expenses as unfavorable growing conditions have caused the volume of assessable onion shipments to fall well below what the Committee had expected. Therefore, actual assessment income collected for the 2021–2022 and 2022–2023 fiscal periods was significantly less than projected. The Committee is cautiously optimistic that conditions would improve, projecting handler shipments of 10,000,000 hundredweight of assessable Idaho-Eastern Oregon onions for the 2023–2024 fiscal period, which is the same as initially projected for the 2022–2023 fiscal period.

The major expenditures recommended by the Committee for the 2023–2024 fiscal period include $190,000 for research; $175,000 for promotion; $21,000 for export initiatives; $118,529 in salary expenses; $55,270 for travel/office expenses; $15,000 for marketing order contingency; and $6,000 for Committee expenses. By comparison, for the 2022–2023 fiscal period, budgeted expenses for research, promotion, export initiatives, salaries, travel/office, and marketing order contingency were $263,061; $200,000; $126,000; $103,004; $96,370; $25,000; and $6,000, respectively. The Committee's 2023–2024 budget also includes a separate line-item expense of $458,986 for ''grant expenses'' which refers to other research and development projects funded with reimbursable Specialty Crop Block Grant Program funds. This category reflects the total grant amount awarded for approved research, promotion, and export activities. In previous budgets, these funds were allocated to the individual programs where those funds would be utilized (*e.g.,* research, promotion, and export). However, the Committee felt that holding these expenditures as a separate expense category for the 2023–2024 fiscal period helped differentiate activities funded exclusively through assessment income from those funded through reimbursable grants. The Committee submits each project under the Specialty Crop Block Grant to the State of Idaho for evaluation and approval prior to reimbursement.

The expected 10,000,000 hundredweight of Idaho-Eastern Oregon onions from the 2023–2024 crop would generate $700,000 in assessment revenue at the proposed assessment rate (10,000,000 hundredweight of onions multiplied by $0.07 assessment rate). The 2023–2024 fiscal period assessment rate increase should be appropriate to ensure the Committee has sufficient revenue, along with an anticipated $458,986 in funds awarded through the Specialty Crop Block Grant Program and $23,850 in other income, to fully fund its recommended 2023–2024 fiscal period budgeted expenditures and begin replenishing the Committee's reserve funds to a level that the Committee believes is appropriate.

The Committee derived the recommended assessment rate by considering anticipated fiscal period expenses and the estimated 2023 crop volume of 10,000,000 hundredweight of assessable Idaho-Eastern Oregon onions. Income derived from handler assessments ($700,000), Specialty Crop Block Grants ($458,986), and other sources including interest income and voluntary contributions ($23,850), should be more than adequate to cover budgeted expenses ($1,039,785). The Committee projects a positive net difference between 2023–2024 fiscal period income and expenses of $143,051. This amount would help replenish the Committee's reserve fund from an estimated $230,351 on July 1, 2023, to an estimated $373,402 on July 1, 2024, a figure much more closely aligned with the Committee's preferred reserve balance of approximately half of one year's operational expenses.

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by AMS upon recommendation and information submitted by the Committee or other available information. Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or AMS. Committee meetings are open to the public and interested persons may express their views at these meetings. AMS would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2023–2024 fiscal period budget, and those for subsequent fiscal periods, 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 essentially small entities acting on their own behalf.

There are approximately 190 producers of Idaho-Eastern Oregon onions in the production area and 30 handlers subject to regulation under the Order. Small agricultural producers of onions are defined by the Small Business Administration (SBA) as those having annual receipts of less than $3,750,000, and small agricultural service firms are defined as those whose annual receipts are less than $34,000,000 (13 CFR 121.201).

According to the National Agricultural Statistics Service (NASS), the average annual producer price

received for dry fresh market onions in Idaho and Malheur County, Oregon, in 2021, the most recent year for which there is NASS data, was $21.10 per hundredweight. Total production of Idaho-Eastern Oregon onions for the 2021 season was reported by the Committee to be 9,281,912 hundredweight. Using the average producer price from 2021, the total 2021–2022 crop value of Idaho-Eastern Oregon onions could therefore be estimated to be $195,848,343 (9,281,912 hundredweight times $21.10 per hundredweight). Dividing the crop value by the estimated number of producers (190) yields an estimated average receipt per producer of $1,030,780, which is well below the SBA threshold for small producers.

In addition, according to AMS Market News data, the reported average free on board (FOB) price for onions from Idaho-Eastern Oregon over the 2021–2022 fiscal period was between $15.00 and $20.00 per 50-pound carton, depending upon variety, size and grade, and shipping date. Assuming an average of $17.50 for the fiscal period and multiplying this figure by 2 (to adjust to hundredweight) yields an average FOB price of $35.00 per hundredweight for the 2021–2022 fiscal period. Multiplying the 2021–2022 Idaho-Eastern Oregon onion production of 9,281,912 hundredweight by the estimated average price per hundredweight of $35.00 equals $324,866,920. Dividing this figure by the 30 regulated handlers yields estimated average annual handler receipts of $10,828,897 ($324,866,920 divided by 30 handlers), which is below the SBA threshold for small agricultural service firms. Therefore, using the above data and assuming a normal distribution, most of the producers and handlers of Idaho-Eastern Oregon onions may be classified as small entities.

This proposal would increase the assessment rate collected from handlers for the 2023–2024 and subsequent fiscal periods from $0.05 to $0.07 per hundredweight of Idaho-Eastern Oregon onions. The Committee unanimously recommended 2023–2024 fiscal period expenditures of $1,039,785 and an assessment rate of $0.07 per hundredweight of Idaho-Eastern Oregon onions. The proposed assessment rate of $0.07 is $0.02 higher than the current rate. The Committee expects the industry to handle 10,000,000 hundredweight of Idaho-Eastern Oregon onions during the 2023–2024 fiscal period. Thus, the $0.07 per hundredweight rate should provide $700,000 in assessment income (10,000,000 multiplied by $0.07). The Committee expects to use an anticipated $458,986 awarded from the Specialty Crop Block Grant Program to cover remaining expenses. Income derived from handler assessments, Specialty Crop Block Grant Program funds, and other sources including interest income and voluntary contributions, should be more than adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2023–2024 fiscal period include $190,000 for research committee, $175,000 for promotion committee, $21,000 for export committee, $118,529 in salary expenses, $55,270 for travel/office expenses, $15,000 for marketing order contingency, and $6,000 in committee expenses. By comparison, for the 2022–2023 fiscal period, budgeted expenses for research, promotion, export initiatives, salaries, travel/office, and marketing order contingency were $263,061, $200,000, $126,000, $103,004, $96,370, $25,000, and $6,000, respectively.

In recent years, the Committee has utilized reserve funds to partially fund its budgeted expenditures. The Committee recommended increasing the assessment rate to fully fund 2023–2024 fiscal period budgeted expenditures and replenish funds held in its reserve. This action would add an estimated $143,051 to the Committee's financial reserve fund. The reserve balance would be kept at a level that the Committee believes is appropriate and which is compliant with the provisions of the Order.

Prior to arriving at this budget and proposed assessment rate, the Committee discussed various alternatives, including maintaining the current assessment rate of $0.05 per hundredweight and increasing the assessment rate by different amounts. However, the Committee determined that the recommended assessment rate would fully fund budgeted expenses and replenish reserves to appropriate levels. The assessment rate of $0.07 per hundredweight of Idaho-Eastern Oregon onions was derived by considering anticipated expenses, the projected volume of assessable Idaho-Eastern Oregon onions, grant funds awarded, the projected monetary balance held in reserve, and additional pertinent factors.

A review of NASS information indicates that the average producer price for the 2021–2022 fiscal period was $21.10 per hundredweight of onions in the production area. Further, the Committee reported the quantity of assessable Idaho-Eastern Oregon onions harvested in the 2021–2022 fiscal period was 9,281,912 hundredweight, which yields estimated total producer revenue of $195,848,343 ($21.10 per hundredweight multiplied by 9,281,912). Therefore, utilizing the assessment rate of $0.07 per hundredweight, assessment revenue for the 2021–2022 fiscal period, as a percentage of total producer revenue, would be approximately 0.33 percent of total producer revenue ($0.07 multiplied by 9,281,912 per hundredweight divided by $195,848,343 and multiplied by 100).

This proposed action would increase the assessment obligation imposed on Idaho-Eastern Oregon onion handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, these costs are expected to be offset by the benefits derived by the operation of the Order.

The Committee's meetings are widely publicized throughout the production area. The Idaho-Eastern Oregon onion industry and all interested persons are invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the June 27, 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 Idaho-Eastern Oregon onion 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 958

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Agricultural Marketing Service proposes to amend 7 CFR part 958 as follows:

PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

■ 1. The authority citation for 7 CFR part 958 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Revise § 958.240 to read as follows:

§ 958.240 Assessment rate.

On and after July 1, 2023, an assessment rate of $0.07 per hundredweight is established for Idaho-Eastern Oregon onions.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2023–27213 Filed 12–11–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–2234; Project Identifier AD–2023–00963–T]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. This proposed AD was prompted by two engine fan blade-out (FBO) events that resulted in the separation of engine inlet cowl and fan cowl parts from the airplane. In one event, fan cowl parts damaged the fuselage, which caused loss of pressurization and subsequent emergency descent. This proposed AD would require replacing the fasteners on the fan cowl support beam hinge fittings for certain airplanes and, for all airplanes, would require modifying the radial restraint assembly and installing an external doubler at the starter vent, or as an option, installing a serviceable fan cowl. This proposed AD would also require revising the existing maintenance or inspection program, as applicable, to incorporate new airworthiness limitations. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by January 26, 2024.

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–2023–2234; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website *myboeingfleet.com.*
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* by searching for and locating Docket No. FAA–2023–2234.

FOR FURTHER INFORMATION CONTACT: Luis Cortez-Muniz, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone: 206–231–3958; email: *luis.a.cortez-muniz@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–2023–2234; Project Identifier AD–2023–00963–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend 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 Luis Cortez-Muniz, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone: 206–231–3958; email: *luis.a.cortez-muniz@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA received two reports of engine events that resulted in the separation of engine inlet cowl and fan cowl parts from the airplane. One event occurred in August 2016 on a Boeing Model 737–700 series airplane powered by a CFM56–7B engine. The left engine failed due to the FBO but the airplane landed successfully. The second event occurred on April 17, 2018, on a Boeing Model 737–700 series airplane powered by a CFM56–7B engine. In that event, an FBO occurrence resulted in the release of fan cowl parts and the engine cowling departing the airplane. The fan cowl parts damaged the fuselage, which caused loss of pressurization and subsequent emergency descent. Although the airplane landed safely, there was one passenger fatality. In that event, the suspected cause of the FBO occurrence was a low-cycle fatigue crack in the dovetail of fan blade number 13 of engine number 1. The broken fan blade hit the engine fan case at a critical location causing a significant impulse, displacement, and imbalance of the fan rotor effecting the structural integrity of the engine cowling.

In response to these events, the FAA issued two AD actions for the CFM International S.A. (CFM) Model CFM56–7B engines. The FAA issued emergency AD 2018–09–51, Amendment 39–19287 (83 FR 23794, May 23, 2018) (AD 2018–09–51), which requires a one-time ultrasonic inspection of the concave and convex sides of the fan blade dovetail. The FAA also issued AD 2018–26–01, Amendment 39–19531 (83 FR 66090, December 26, 2018) (AD 2018–26–01), which requires initial and repetitive inspections of the concave and convex sides of the fan blade dovetail to detect cracking and replacement of any blades found. The FAA issued AD 2018–09–51 to address fan blade failure due to cracking, which could result in an engine in-flight shutdown (IFSD), uncontained release of debris, damage to the engine, damage to the airplane, and possible airplane decompression. The FAA issued AD 2018–26–01 to address failure of the fan blade, which could result in the engine inlet cowl disintegrating and debris penetrating the fuselage, causing a loss of pressurization, and prompting an emergency descent.

Since AD 2018–09–51 and AD 2018–26–01 were issued, the FAA has determined further rulemaking is necessary to reduce the probability of unsecured nacelle components, should an engine fan blade failure occur. As evidenced by Exemption No. 19212, dated July 13, 2022 (Docket No. FAA–2023–2234), Boeing developed modifications to the inlet cowl, fan cowl, and exhaust nozzle that must be accomplished prior to July 31, 2028. Boeing petitioned and the FAA later agreed to amend Exemption No. 19212 to 19212A, which added a requirement that solutions to address potential maintenance errors must be incorporated prior to December 31, 2029. However, to implement these design changes, the FAA must issue rulemaking to address the unsafe condition.

This proposed AD would address fan cowls that are not strengthened, which could, in the event of an FBO occurrence, depart the nacelle potentially damaging a stabilizer, or the fan cowl could strike the fuselage and window. The unsafe condition, if not addressed, could result in loss of control of the airplane, or in a rapid decompression and hazard to window-seated passengers aft of the wing.

FAA's Determination

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.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Special Attention Requirements Bulletin 737–71–1937 RB, dated July 27, 2023. This service information specifies procedures for replacing, for certain airplanes, the fasteners on the fan cowl support beam hinge fittings on the left and right engine strut, and, for engine 1 and engine 2 for all airplanes, modifying the radial restraint assembly and installing an external doubler at the starter vent, or as an option, installing a serviceable fan cowl.

The service information also requires revision of the operator's maintenance or inspection program, as applicable, by incorporating certain airworthiness limitations (AWLs).

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**.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in the service information already described, except as discussed under ''Differences Between this Proposed AD and the Service Information'' and except for any differences identified as exceptions in the regulatory text of this proposed AD. For information on the procedures and compliance times, see this service information at *regulations.gov* under Docket No. FAA–2023–2234.

This proposed AD would require revisions to certain operator maintenance documents to include new airworthiness limitations. Compliance with these limitations is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (j) of this proposed AD.

Differences Between This Proposed AD and the Service Information

Boeing Special Attention Requirements Bulletin 737–71–1937 RB, dated July 27, 2023, identifies ''System Airworthiness Limitation NO. 2—Fan Blade Out Conditions,'' and ''System Airworthiness Limitation NO. 3—Fan Blade Out Conditions'' as the airworthiness limitations that must be incorporated. In addition to those system limitations, the FAA has determined that ''System Airworthiness Limitation NO. 4—Engine Nacelle Maintenance Errors'' must also be incorporated as specified in paragraph (h) of this proposed AD. System Airworthiness Limitation NO. 4 specifically provides the limitation that mandates solutions to maintenance errors that must be accomplished prior to December 31, 2029, as required by Exemption No. 19212A.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 1,979 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
Modification and Installation	140 work-hours × $85 per hour = $11,900.	$1,400	$13,300	$26,320,700.
Fastener replacement	Up to 8 work-hour × $85 per hour = $680.	Up to $2,300	Up to $2,980	Up to $5,897,420.

* The option to install a serviceable fan cowl would cost up to $16,280 per product.

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the agency estimates the average total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

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:

The Boeing Company: Docket No. FAA–2023–2234; Project Identifier AD–2023–00963–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by January 26, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 71, Powerplant.

(e) Unsafe Condition

This AD was prompted by two engine fan blade-out (FBO) events that resulted in the separation of engine inlet cowl and fan cowl parts from the airplane. In one event, fan cowl parts damaged the fuselage, which caused loss of pressurization and subsequential emergency descent. The FAA is issuing this AD to address fan cowls that are not strengthened, which, in the event of an FBO occurrence, could depart the nacelle potentially damaging a stabilizer, or the fan cowl striking the fuselage and window. The unsafe condition, if not addressed, could result in loss of control of the airplane, or in a rapid decompression and hazard to window-seated passengers aft of the wing.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Special Attention Requirements Bulletin 737–71–1937 RB, dated July 27, 2023, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Special Attention Requirements Bulletin 737–71–1937 RB, dated July 27, 2023.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Special Attention Service Bulletin 737–71–1937, dated July 27, 2023, which is referred to in Boeing Special Attention Requirements Bulletin 737–71–1937 RB, dated July 27, 2023.

(h) Exceptions to Service Information Specifications

(1) Where the service information referenced in paragraph (g) of this AD specifies contacting Boeing or Collins Aerospace for repair instructions: This AD requires doing the repair before further flight using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(2) Where Tables 1 through 4 of Boeing Special Attention Requirements Bulletin 737–71–1937 RB, dated July 27, 2023, specify incorporating 737–600/700/700C/800/900/900ER Airworthiness Limitations (AWLs) document D626A001–9–01 ''System Airworthiness Limitation NO. 2—Fan Blade

Out Conditions'' and ''System Airworthiness Limitation NO. 3—Fan Blade Out Conditions'' into the operators' maintenance program, this AD requires revising the existing maintenance or inspection program, as applicable, by incorporating the information specified in Figure 1 to the introductory text of paragraph (h) of this AD into the airworthiness limitations within 90 days after the effective date of this AD, or before further flight after accomplishing the (Option 1) or (Option 2) actions in Boeing Special Attention Requirements Bulletin 737–71–1937 RB, dated July 27, 2023, whichever occurs first.

Figure 1 to the Introductory Text of Paragraph (h)—System Airworthiness Limitations

SYSTEM AIRWORTHINESS LIMITATION No. 2
FAN BLADE OUT CONDITIONS
All aircraft must install the following modifications: (1) engine inlets with new spacer design and increased fastener capability (2) fan cowls with new radial restraint fitting hooks, new radial restraint clips, and an external doubler at the starter vent (3) fan cowl support beam fastener changes (except for 737-900ER aircraft, because the fan cowl support beam fastener changes are already incorporated). All aircraft that have not incorporated these modifications cannot operate past July 31, 2028 unless upgraded to new hardware that is fully compliant to §§25.901(c) and Appendix K25.1.1 to Part 25. Boeing will release all service data to allow retrofit of hardware updates to the CFM56-7B nacelle prior to that date.

SYSTEM AIRWORTHINESS LIMITATION No. 3
FAN BLADE OUT CONDITIONS
All aircraft delivered without the Performance Improvement Package (PIP) must install engine exhaust nozzle structural stiffening elements. All aircraft that have not incorporated these modifications cannot operate past July 31, 2028 unless upgraded to new hardware that is fully compliant to §§25.901(c) and Appendix K25.1.1 to Part 25. Boeing will release all service data to allow retrofit of hardware updates to the CFM56-7B nacelle prior to that date.

SYSTEM AIRWORTHINESS LIMITATION No. 4
ENGINE NACELLE MAINTENANCE ERRORS
All aircraft must incorporate solutions to address potential maintenance errors, e.g., the failure to completely latch the fan cowl or the fan cowl integrated drive generator (IDG) door. All aircraft that have not incorporated changes to become fully compliant with §§25.901(c) and Appendix K25.1.1 to Part 25 cannot be operated past December 31, 2029.

(i) No Alternative Actions

After the existing maintenance or inspection program has been revised as required by paragraph (h)(2) of this AD, no alternative actions may be used unless the actions are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j) of this AD.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, AIR–520, Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, AIR–520, Continued Operational Safety Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(k) Related Information

For more information about this AD, contact Luis Cortez-Muniz, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone: 206–231–3958; email: *luis.a.cortez-muniz@faa.gov.*

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) 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) Boeing Special Attention Requirements Bulletin 737–71–1937 RB, dated July 27, 2023.

(ii) [Reserved]

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website *myboeingfleet.com.*

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(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 December 1, 2023.

Victor Wicklund,

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

[FR Doc. 2023–27100 Filed 12–11–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–1993; Project Identifier AD–2023–00129–T]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2020–03–20, which applies to certain The Boeing Company Model MD–11, MD–11F, and 717–200 airplanes, all Model 737–8 and 737–9 airplanes, all Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes, certain Model 747–400 and 747–400F series airplanes, certain Model 757 and 767 airplanes, and all Model 777 airplanes. AD 2020–03–20 requires revising the existing airplane flight manual (AFM) to include a limitation to prohibit operations that require less than 0.3 required navigational performance (RNP) within a specified area for airplanes having a certain multi-mode receiver (MMR) with certain software installed. Since the FAA issued AD 2020–03–20, the agency received reports from Boeing of simultaneous MMR resets related to an error in calculating Coordinated Universal Time (UTC). This proposed AD would continue to require the actions in AD 2020–03–20 and would also require installing certain MMR operational software (OPS). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by January 26, 2024.

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–2023–1993; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website *myboeingfleet.com.*
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* by searching for and locating Docket No. FAA–2023–1993.

FOR FURTHER INFORMATION CONTACT: Jeffrey W. Palmer, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 562–627–5351; *jeffrey.w.palmer@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–2023–1993; Project Identifier AD–2023–00129–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

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

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 Jeffrey W. Palmer, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 562–627–5351; *jeffrey.w.palmer@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2020–03–20, Amendment 39–19844 (85 FR 8717, February 18, 2020) (AD 2020–03–20), for The Boeing Company Model MD–11 and MD–11F airplanes modified by supplemental type certificate (STC) ST01895WI; Model 717–200 airplanes modified by STC ST04416AT; all Model 737–8 and 737–9 airplanes; all Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes; Model 747–400 and 747–400F series airplanes modified by STC ST01892WI; Model 757–200, –200PF, –200CB, and –300 series airplanes modified by STC ST04436AT; Model 767–200, –300, –300F, –400ER, and –2C series airplanes modified by STC ST04436AT or ST01883WI; and all Model 777–200, –200LR, –300, –300ER, and 777F series airplanes.

AD 2020–03–20 was prompted by reports of the loss of global positioning system (GPS) data or degraded GPS positional accuracy while using a certain MMR with certain Collins MMR software installed. When an airplane is within a specific geographic region, the software is failing to map the computed ionospheric pierce point to the correct hemisphere. As a result, AD 2020–03–20 requires airplanes with a certain MMR with certain software installed to revise the existing AFM to include a limitation to prohibit operations that require less than 0.3 RNP within the specified geographic area. The agency issued AD 2020–03–20 to address the loss of GPS data and degraded GPS positional accuracy, which, during a high-precision approach with this GPS error, could result in controlled flight into terrain.

Actions Since AD 2020–03–20 Was Issued

Since the FAA issued AD 2020–03–20, the FAA received reports from Boeing indicating there is an MMR software error that results in an MMR reset after a leap-second, which is occasionally applied to UTC. If the software calculation error occurs on all MMRs that are powered on at that time, there could be simultaneous loss of all MMR-based functions on all affected airplanes. If an affected airplane is in flight phase when this calculation error occurs, the loss of all MMR functions would result in increased flightcrew workload, as the flightcrew would reduce automation and switch to operating under visual flight rules, which requires contacting air traffic control (ATC) for direction and support. In the event of multiple airplanes simultaneously experiencing loss of MMR function in instrument meteorological conditions during landing or takeoff, this would result in increased ATC workload and consequent reduction in airplane spacing, which could result in a mid-air collision.

In addition, Boeing has developed new software that addresses both the unsafe condition identified in AD 2020–03–20 (software that fails to map the computed ionospheric pierce point to the correct hemisphere) and the additional unsafe condition identified in this proposed AD (software error that results in an MMR reset after a leap-second). Installing the new software would eliminate the need for the AFM revision required by AD 2020–03–20.

FAA's Determination

The FAA is issuing this NPRM after determining that the unsafe conditions described previously are likely to exist or develop on other products of the same type design.

Related Service Information Under 1 CFR Part 51

The FAA reviewed the following Boeing requirements bulletins:

- Boeing Alert Requirements Bulletin 737–34A3572 RB, dated October 15, 2020.
- Boeing Alert Requirements Bulletin 737–34A3573 RB, dated August 5, 2020.
- Boeing Alert Requirements Bulletin 777–34A0385 RB, Revision 1, dated March 8, 2021.

This service information specifies procedures for installation of MMR OPS part number (P/N) COL4C–0087–0003 (or later-approved software P/N) in MMR 1 and MMR 2, installation of MMR option selection software (OSS) P/N BCG27–U000–0730 or BCG48–U000–05W9, and software configuration checks. This service information also specifies taking concurrent actions, including replacement of MMRs, replacement of GPS antennas, and installation of additional software.

These documents are distinct since they apply to different airplane models and configurations. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Proposed AD Requirements in This NPRM

This proposed AD would retain all requirements of AD 2020–03–20. This proposed AD would also require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between this Proposed AD and the Service Information.'' For information on the procedures and compliance times, see this service information at *regulations.gov* by searching for and locating Docket No. FAA–2023–1993. For airplanes for which the service information is not applicable, this proposed AD would require installing MMR OPS P/N COL4C–0087–0003 (or later-approved software version) and conducting a software configuration check, both of which must be done in accordance with a method approved by the Manager, AIR–520, Continued Operational Safety Branch, FAA.

Differences Between This Proposed AD and the Service Information

Where the service information specifies installing MMR OSS P/N BCG27–U000–0730 or BCG48–U000–05W9, this proposed AD would not require that action. Those MMR OSS part numbers are not used to calculate position nor time functions; therefore, the installation of those MMR OSS part numbers is not required for addressing the unsafe condition.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 409 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
AFM revision (retained action from AD 2020-03-20).	1 work-hour × $85 per hour = $85	$0	$85	$34,765.
Software installation and check (new proposed action).	2 work-hours × $85 per hour = $170.	265	435	$177,915.
Concurrent actions	5 work-hours × $85 = $425	795	1,220	Up to $498,980.*

* Not all airplanes would be required to do the concurrent actions. However, the FAA does not have an estimate of how many airplanes are in a configuration that would require concurrent actions.

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 has 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 that the 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:

■ a. Removing Airworthiness Directive (AD) 2020–03–20, Amendment 39–19844 (85 FR 8717, February 18, 2020), and

■ b. Adding the following new AD:

The Boeing Company: Docket No. FAA–2023–1993; Project Identifier AD–2023–00129–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by January 26, 2024.

(b) Affected ADs

This AD replaces AD 2020–03–20, Amendment 39–19844 (85 FR 8717, February 18, 2020) (AD 2020–03–20).

(c) Applicability

This AD applies to The Boeing Company airplanes, certificated in any category, as identified in paragraphs (c)(1) through (9) of this AD.

(1) Model MD–11 and MD–11F airplanes modified by supplemental type certificate (STC) ST01895WI.

(2) Model 717–200 airplanes modified by STC ST04416AT.

(3) All Model 737–8 and 737–9 airplanes.

(4) All Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes.

(5) Model 747–400 and 747–400F series airplanes modified by STC ST01892WI.

(6) Model 757–200, –200PF, –200CB, and –300 series airplanes modified by STC ST04436AT.

(7) Model 767–200, –300, –300F, –400ER, and –2C series airplanes modified by STC ST04436AT or ST01883WI.

(8) All Model 777–200, –200LR, –300, and –300ER series airplanes.

(9) All Model 777F series airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 34, Navigation.

(e) Unsafe Condition

This AD was prompted by reports of the loss of global positioning system (GPS) data or degraded GPS positional accuracy and additional reports of an error in calculating Coordinated Universal Time (UTC) while using a certain multi-mode receiver (MMR) with certain software installed. The FAA is issuing this AD to address loss of GPS data and degraded GPS positional accuracy, which, during a high-precision approach with this GPS error, could result in controlled flight into terrain, and to address UTC calculation errors that could result in simultaneous MMR resets on multiple airplanes, increased air traffic control workload, and consequent reduction in airplane separation and potential for mid-air collision.

(f) Compliance

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

(g) Retained Airplane Flight Manual (AFM) Revision, With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2020–03–20, with no changes. For airplanes equipped with Collins GLU–2100 MMR, part number (P/N) 822–2532–100, having any applicable GLU–2100 operational software (OPS) identified in figure 1 to paragraph (g) of this AD installed: At the applicable time specified in paragraphs (g)(1) and (2) of this AD, revise the limitations or certificate limitations section, as applicable, of the existing AFM to include the information specified in figure 2 to paragraph (g) of this AD and revise the procedures or normal procedures section, as applicable, of the existing AFM to include the information specified in figure 3 to paragraph (g) of this AD. This may be done by inserting a copy of figures 2 and 3 to paragraph (g) of this AD into the existing AFM.

(1) For Model 737–8 and 737–9 airplanes: Before further flight.

(2) For all airplanes except Model 737–8 and 737–9 airplanes: Within 7 days after February 18, 2020 (the effective date of AD 2020–03–20).

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Figure 1 to Paragraph (g)—Affected OPS Software

Airplanes	OPS Software Number
Model 777-200, 777-200LR, 777-300, 777-300ER, and 777F series airplanes	COL4D-0087-0002
Model 737-600, 737-700, 737-700C, 737-800, 737-900, and 737-900ER series airplanes; and Model 737-8, and 737-9 airplanes	COL4E-0087-0001
All airplanes	COL48-0087-0700
Model MD-11, MD-11F, and 717-200 airplanes; and Model 737-600, 737-700, 737-700C, 737-800, 737-900, 737-900ER, 747-400F, 747-400, 757-200, 757-200PF, 757-200CB, 757-300, 767-200, 767-300, 767-300F, 767-400ER, 767-2C, 777-200, 777-200LR, 777-300, 777-300ER, and 777F series airplanes	COL49-0087-0701

Figure 2 to Paragraph (g)—AFM—Limitations or Certificate Limitations

Electronics – Global Landing Unit (GLU) (Required by AD 2020-03-20)

Operations that require less than 0.3 RNP (For example, 0.1, 0.11, 0.15, etc.) in the region identified below are prohibited with GLU-2100 OPS software number COL4D-0087-0002, COL4E-0087-0001, COL48-0087-0700, or COL49-0087-0701 installed.

Exception: Anchorage (PANC) approach procedures that allow less than RNP 0.3 are authorized provided the instructions outlined in the Electronics – Global Landing Unit Section of Normal Procedures Chapter are followed.

Note: Currently, Fairbanks (PAFA) and Anchorage (PANC) are the only airports in the region with an RNP approach that requires better than 0.3 nmi performance.

Region bounded by the following coordinates:

Latitude Range (degrees)	Longitude Range (degrees)
80 N to 70 N	40 E to 40 W
70 N to 69 N	134.5 E to 134.38 W
69 N to 68 N	134.5 E to 137.28 W
68 N to 67 N	134.5 E to 139.50 W
67 N to 66 N	134.5 E to 141.58 W
66 N to 65 N	134.5 E to 144.23 W
65 N to 64 N	134.5 E to 145.48 W
64 N to 63 N	134.5 E to 146.44 W
63 N to 62 N	134.5 E to 148.33 W
62 N to 61 N	134.5 E to 149.50 W
61 N to 60 N	134.5 E to 150.35 W
60 N to 59 N	134.5 E to 151.00 W
59 N to 58 N	134.5 E to 151.40 W
58 N to 57 N	134.5 E to 152.62 W
57 N to 56 N	134.5 E to 153.42 W
56 N to 30 N	154 E to 154 W
30 N to 5 N	163 E to 163 W
5 N to 10 S	166 E to 166 W
10 S to 15 S	170 E to 170 W

Figure 2 to Paragraph (g)—AFM—Limitations or Certificate Limitations Continued

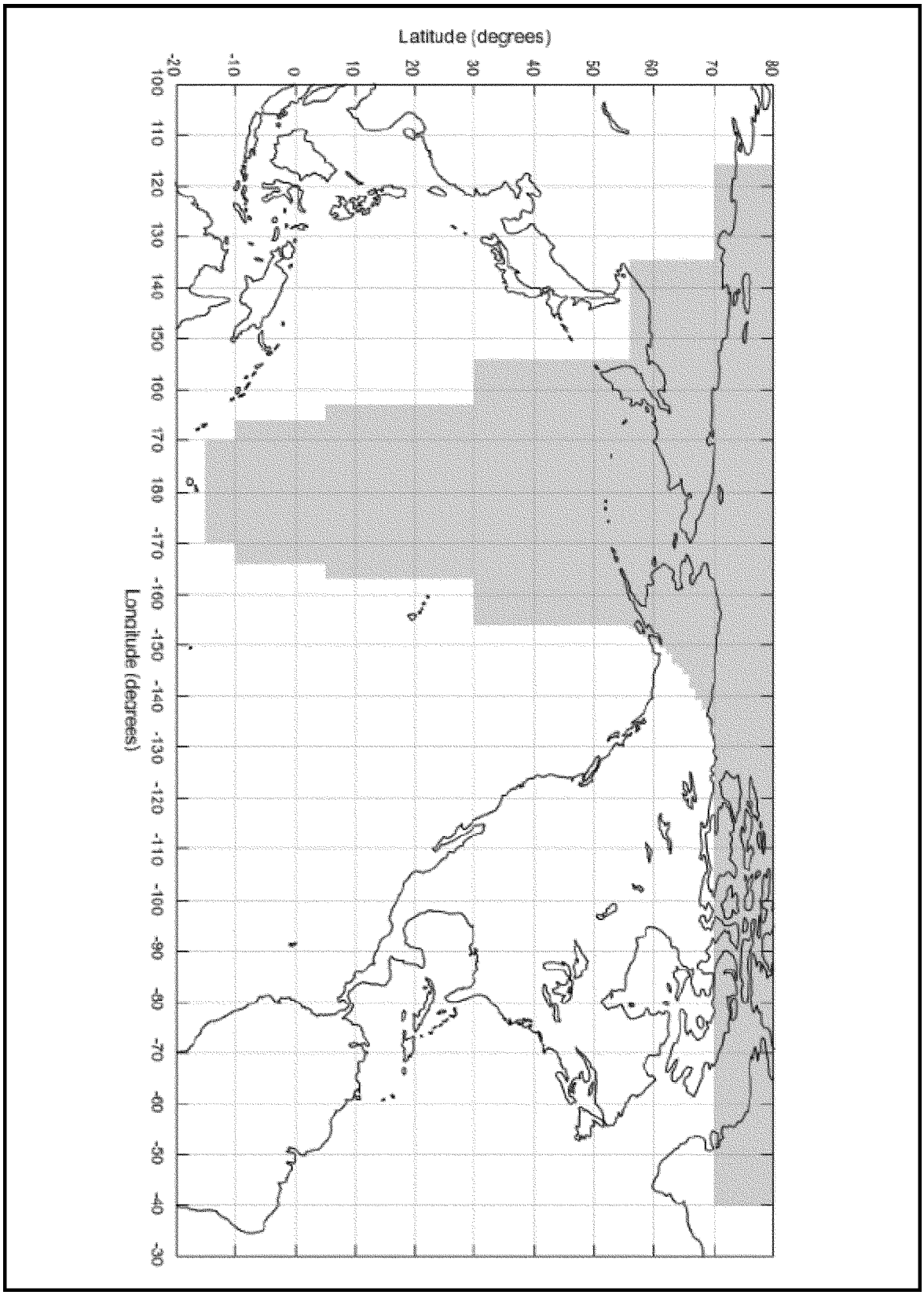

Figure 3 to Paragraph (g)—AFM—Procedures or Normal Procedures

Electronics – Global Landing Unit (GLU) **(Required by AD 2020-03-20)**

To conduct an approach procedure with GLU-2100 OPS software number COL4D-0087-0002, COL4E-0087-0001, COL48-0087-0700, or COL49-0087-0701, installed at Anchorage (PANC) with less than 0.3 RNP, accomplish the following prior to dispatch in accordance with AC 90-101A:

Perform a RNP GPS prediction to ensure the predicted availability of GPS Horizontal Integrity Limit (HIL) is less than MAX HIL for the planned operation time frame at Anchorage (PANC).

MAX HIL = 1.8 (RNP – 0.0726 nm) for LNAV with A/P engaged

MAX HIL = 1.8 (RNP – 0.0926 nm) for LNAV with F/D

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(h) Software Installation for Certain Airplanes

For airplanes identified in paragraphs (h)(1) through (7) of this AD: Within 12 months after the effective date of this AD, install MMR OPS P/N COL4C–0087–0003, or later-approved software version, and do a software configuration check to confirm that P/N COL4C–0087–0003 or later-approved software version is installed. Both the installation and the check must be done in accordance with a method approved by the Manager, AIR–520, Continued Operational Safety Branch, FAA. Later-approved software versions are those Boeing software versions that are approved as a replacement for MMR OPS P/N COL4C–0087–0003 and are approved as part of the type design by the FAA or by The Boeing Company Organization Designation Authorization (ODA).

(1) Model MD–11 and MD–11F airplanes modified by STC ST01895WI.

(2) Model 717–200 airplanes modified by STC ST04416AT.

(3) Model 737–600, –700, –700C, –800, and –900 series airplanes.

(4) Model 747–400 and 747–400F series airplanes modified by STC ST01892WI.

(5) Model 757–200, –200PF, –200CB, and –300 series airplanes modified by STC ST04436AT.

(6) Model 767–200, –300, –300F, –400ER, and –2C series airplanes modified by STC ST04436AT or ST01883WI.

(7) Model 777–200, –200LR, and –300 series airplanes.

(i) Software Installation for Certain Other Airplanes

For Model 737–8 and –9 airplanes, Model 737–900ER series airplanes, and Model 777–300ER and 777F series airplanes: Within 12 months after the effective date of this AD, except as specified in paragraph (j) of this AD, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of the applicable requirements bulletin identified in paragraphs (i)(1) through (3) of this AD.

(1) For Model 737–8 and –9 airplanes: Boeing Alert Requirements Bulletin 737–34A3572 RB, dated October 15, 2020.

Note 1 to paragraph (i)(1): Guidance for accomplishing the actions required by paragraph (i)(1) of this AD can be found in Boeing Alert Service Bulletin 737–34A3572, dated October 15, 2020, which is referred to in Boeing Alert Requirements Bulletin 737–34A3572 RB, dated October 15, 2020.

(2) For Model 737–900ER series airplanes: Boeing Alert Requirements Bulletin 737–34A3573 RB, dated August 5, 2020.

Note 2 to paragraph (i)(2): Guidance for accomplishing the actions required by paragraph (i)(2) of this AD can be found in Boeing Alert Service Bulletin 737–34A3573, dated August 5, 2020, which is referred to in Boeing Alert Requirements Bulletin 737–34A3573 RB, dated August 5, 2020.

(3) For Model 777–300ER and 777F series airplanes: Boeing Alert Requirements Bulletin 777–34A0385 RB, Revision 1, dated March 8, 2021.

Note 3 to paragraph (i)(3): Guidance for accomplishing the actions required by paragraph (i)(3) of this AD can be found in Boeing Alert Service Bulletin 777–34A0385, Revision 1, dated March 8, 2021, which is referred to in Boeing Alert Requirements Bulletin 777–34A0385 RB, Revision 1, dated March 8, 2021.

(j) Exceptions to Service Information Specifications

Where the requirements bulletins identified in paragraphs (i)(1) through (3) of this AD specify installing MMR option selection software (OSS) P/N BCG27–U000–0730 or BCG48–U000–05W9 and doing the associated software configuration check, this AD does not require those actions.

(k) Terminating Action

After accomplishing the actions required by paragraph (h) or (i) of this AD, as applicable, you may remove the AFM revision required by paragraph (g) of this AD.

(l) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraph (i)(3) of this AD, if the actions were performed before the effective date of this AD using Boeing Alert Requirements Bulletin 777–34A0385 RB, dated August 7, 2020.

(m) Alternative Methods of Compliance (AMOCs)

(1) The Manager, AIR–520, Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (n)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company ODA that has been authorized by the Manager, AIR–520, Continued Operational Safety Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(n) Related Information

(1) For more information about this AD, contact Jeffrey W. Palmer, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 562–627–5351; *jeffrey.w.palmer@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (o)(3) and (4) of this AD.

(o) 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) Boeing Alert Requirements Bulletin 737–34A3572 RB, dated October 15, 2020.

(ii) Boeing Alert Requirements Bulletin 737–34A3573 RB, dated August 5, 2020.

(iii) Boeing Alert Requirements Bulletin 777–34A0385 RB, Revision 1, dated March 8, 2021.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website *myboeingfleet.com.*

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(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 4, 2023.

Victor Wicklund,

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

[FR Doc. 2023–24306 Filed 12–11–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–2235; Project Identifier AD–2023–01009–T]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. This proposed AD was prompted by two engine fan blade-out (FBO) events that resulted in the separation of engine inlet cowl and fan cowl parts from the airplane damaging the fuselage, which caused loss of pressurization and subsequent emergency descent. The FBO events also resulted in cracks in the primary exhaust nozzle, potentially resulting in the departure of the primary exhaust nozzle and damaging a stabilizer or striking the fuselage and window. This proposed AD would require an inspection or maintenance records check to determine if the primary exhaust nozzle has an affected part number and, for affected primary exhaust nozzles, an installation of bridge brackets onto the primary exhaust nozzle, or as an option, an installation of a serviceable primary exhaust nozzle. This proposed AD would also require revising the existing maintenance or inspection program, as applicable, to incorporate new airworthiness limitations. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by January 26, 2024.

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–2023–2235; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website *myboeingfleet.com.*
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FOR FURTHER INFORMATION CONTACT: Luis Cortez-Muniz, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone: 206–231–3958; email: *luis.a.cortez-muniz@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–2023–2235; Project Identifier AD–2023–01009–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend 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 Luis Cortez-Muniz, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone: 206–231–3958; email: *luis.a.cortez-muniz@faa.gov.* Any commentary that the FAA receives that

is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA received two reports of engine events that resulted in the separation of engine inlet cowl and fan cowl parts from the airplane. One event occurred in August 2016 on a Boeing Model 737–700 series airplane powered by a CFM56–7B engine. The left engine failed due to the FBO but the airplane landed successfully. The second event occurred on April 17, 2018, on a Boeing Model 737–700 series airplane powered by a CFM56–7B engine. In that event, an FBO occurrence resulted in the release of fan cowl parts and the engine cowling departing the airplane. The fan cowl parts damaged the fuselage, which caused loss of pressurization and subsequent emergency descent. Although the airplane landed safely, there was one passenger fatality. In that event, the suspected cause of the FBO occurrence was a low-cycle fatigue crack in the dovetail of fan blade number 13 of engine number 1. The broken fan blade hit the engine fan case at a critical location causing a significant impulse, displacement, and imbalance of the fan rotor effecting the structural integrity of the engine cowling.

In response to these events, the FAA issued two AD actions for the CFM International S.A. (CFM) Model CFM56–7B engines. The FAA issued emergency AD 2018–09–51, Amendment 39–19287 (83 FR 23794, May 23, 2018) (AD 2018–09–51), which requires a one-time ultrasonic inspection of the concave and convex sides of the fan blade dovetail. The FAA also issued AD 2018–26–01, Amendment 39–19531 (83 FR 66090, December 26, 2018) (AD 2018–26–01), which requires initial and repetitive inspections of the concave and convex sides of the fan blade dovetail to detect cracking and replacement of any blades found. The FAA issued AD 2018–09–51 to address fan blade failure due to cracking, which could result in an engine in-flight shutdown (IFSD), uncontained release of debris, damage to the engine, damage to the airplane, and possible airplane decompression. The FAA issued AD 2018–26–01 to address failure of the fan blade, which could result in the engine inlet cowl disintegrating and debris penetrating the fuselage, causing a loss of pressurization, and prompting an emergency descent.

Since AD 2018–09–51 and AD 2018–26–01 were issued, the FAA has determined further rulemaking is necessary to reduce the probability of unsecured nacelle components, should an engine fan blade failure occur. As evidenced by Exemption No. 19212, dated July 13, 2022 (Docket No. FAA–2023–2235), Boeing developed modifications to the inlet cowl, fan cowl, and exhaust nozzle that must be accomplished prior to July 31, 2028. Boeing petitioned and the FAA later agreed to amend Exemption No. 19212 to 19212A, which added a requirement that solutions to address potential maintenance errors must be incorporated prior to December 31, 2029. However, to implement these design changes, the FAA must issue rulemaking to address the unsafe condition.

This proposed AD would address the unsafe condition related to the primary exhaust nozzle that was also a result of the FBO events. During an FBO event, primary exhaust nozzles that are not strengthened could depart the engine, potentially damaging a stabilizer or striking the fuselage and window. This condition, if not addressed, could result in loss of control of the airplane, or in a rapid decompression and hazard to window-seated passengers aft of the wing.

FAA's Determination

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.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Special Attention Requirements Bulletin 737–78–1106 RB, dated September 1, 2023. This service information specifies procedures for a maintenance records check, or an inspection of the engine to identify if the engine has a primary exhaust nozzle with an affected part number. For affected primary exhaust nozzles, the service information specifies procedures for installing bridge brackets onto the primary exhaust nozzle, or as an option, installing a serviceable exhaust nozzle onto the engine.

The service information also requires revision of the operator's maintenance or inspection program, as applicable, by incorporating certain airworthiness limitations (AWLs).

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**.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in the service information already described, except as discussed under ''Differences Between this Proposed AD and the Service Information'' and except for any differences identified as exceptions in the regulatory text of this proposed AD. For information on the procedures and compliance times, see this service information at *regulations.gov* under Docket No. FAA–2023–2235.

This proposed AD would require revisions to certain operator maintenance documents to include new airworthiness limitations. Compliance with these limitations is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (j) of this proposed AD.

Differences Between This Proposed AD and the Service Information

The Effectivity of Boeing Special Attention Requirements Bulletin 737–78–1106 RB inadvertently excluded Boeing Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes having line numbers 1245, 1614, 1810, 1839, 1885, 1934, 1979, 1991, 2080, 2157, 2232, 2531, 2822, 3071, 3189, and 3319. Those airplanes are affected by the identified unsafe condition; for those airplanes, this proposed AD would require accomplishment of the applicable actions specified in Boeing Special Attention Requirements Bulletin 737–78–1106 RB, September 1, 2023. The FAA has confirmed with Boeing that the Accomplishment Instructions of Boeing Special Attention Requirements Bulletin 737–78–1106 RB, September 1, 2023, are applicable to the expanded group of airplanes.

Boeing Special Attention Requirements Bulletin 737–78–1106 RB, dated September 1, 2023, identifies ''System Airworthiness Limitation NO. 2—Fan Blade Out Conditions,'' and ''System Airworthiness Limitation NO. 3—Fan Blade Out Conditions'' as the airworthiness limitations that must be incorporated. In addition to those limitations, the FAA has determined that ''System Airworthiness Limitation NO. 4—Engine Nacelle Maintenance Errors'' must also be incorporated as

specified in paragraph (h) of this proposed AD. System Airworthiness Limitation NO. 4 specifically provides the limitation that mandates solutions to maintenance errors that must be accomplished prior to December 31, 2029, as required by Exemption No. 19212A.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 1,215 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
Inspect for affected part numbers or maintenance records check.	2 work-hours × $85 per hour = $170.	$0	$170	$206,550.
Bridge bracket installation *	Up 23 work-hours × $85 per hour = $1,955.	Up $63,200	Up to $65,155	Up to $79,163,325 **.

* The option to install a serviceable primary exhaust nozzle would cost up to $65,155 per product.
** Not all airplanes will have an affected primary exhaust nozzle so the fleet cost will be significantly lower.

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the agency estimates the average total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

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:

The Boeing Company: Docket No. FAA–2023–2235; Project Identifier AD–2023–01009–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by January 26, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes specified in paragraphs (c)(1) and (2) of this AD, certificated in any category.

(1) Airplanes identified in Boeing Special Attention Requirements Bulletin 737–78–1106 RB, dated September 1, 2023.

(2) Airplanes having line numbers 1245, 1614, 1810, 1839, 1885, 1934, 1979, 1991, 2080, 2157, 2232, 2531, 2822, 3071, 3189, and 3319.

(d) Subject

Air Transport Association (ATA) of America Code 78, Exhaust.

(e) Unsafe Condition

This AD was prompted by two engine fan blade-out (FBO) events that resulted in the separation of engine inlet cowl and fan cowl parts from the airplane damaging the fuselage, which caused loss of pressurization and subsequent emergency descent. The FBO events also resulted in cracks in the primary exhaust nozzle, which could result in the departure of the primary exhaust nozzle. The FAA is issuing this AD to address primary exhaust nozzles that are not strengthened, which during an FBO event, could depart the engine, potentially damaging a stabilizer or striking the fuselage and window. The unsafe condition, if not addressed, could result in loss of control of the airplane, or in a rapid decompression and hazard to window-seated passengers aft of the wing.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Special Attention Requirements Bulletin 737–78–1106 RB, dated September 1, 2023, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Special Attention Requirements Bulletin 737–78–1106 RB, dated September 1, 2023.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Special Attention Service Bulletin 737–78–1106, dated September 1, 2023, which is referred to in Boeing Special Attention Requirements

Bulletin 737–78–1106 RB, dated September 1, 2023.

(h) Exceptions to Service Information Specifications

Where Tables 1 and 2 of Boeing Special Attention Requirements Bulletin 737–78–1106 RB specify incorporating 737–600/700/700C/800/900/900ER Airworthiness Limitations (AWLs) document D626A001–9–01 ''System Airworthiness Limitation NO. 2—Fan Blade Out Conditions,'' and ''System Airworthiness Limitation NO. 3—Fan Blade Out Conditions'' into the operators' maintenance program, this AD requires revising the existing maintenance or inspection program, as applicable, by incorporating the information specified in Figure 1 to the introductory text of paragraph (h) of this AD into the airworthiness limitations within 90 days after the effective date of this AD, or before further flight after accomplishing any of the actions specified in paragraphs (h)(1) through (3) of this AD, whichever occurs first.

Figure 1 to the Introductory Text of Paragraph (h)—System Airworthiness Limitations

SYSTEM AIRWORTHINESS LIMITATION No. 2
FAN BLADE OUT CONDITIONS
All aircraft must install the following modifications: (1) engine inlets with new spacer design and increased fastener capability (2) fan cowls with new radial restraint fitting hooks, new radial restraint clips, and an external doubler at the starter vent (3) fan cowl support beam fastener changes (except for 737-900ER aircraft, because the fan cowl support beam fastener changes are already incorporated). All aircraft that have not incorporated these modifications cannot operate past July 31, 2028 unless upgraded to new hardware that is fully compliant to §§25.901(c) and Appendix K25.1.1 to Part 25. Boeing will release all service data to allow retrofit of hardware updates to the CFM56-7B nacelle prior to that date.

SYSTEM AIRWORTHINESS LIMITATION No. 3
FAN BLADE OUT CONDITIONS
All aircraft delivered without the Performance Improvement Package (PIP) must install engine exhaust nozzle structural stiffening elements. All aircraft that have not incorporated these modifications cannot operate past July 31, 2028 unless upgraded to new hardware that is fully compliant to §§25.901(c) and Appendix K25.1.1 to Part 25. Boeing will release all service data to allow retrofit of hardware updates to the CFM56-7B nacelle prior to that date.

SYSTEM AIRWORTHINESS LIMITATION No. 4
ENGINE NACELLE MAINTENANCE ERRORS
All aircraft must incorporate solutions to address potential maintenance errors, e.g., the failure to completely latch the fan cowl or the fan cowl integrated drive generator (IDG) door. All aircraft that have not incorporated changes to become fully compliant with §§25.901(c) and Appendix K25.1.1 to Part 25 cannot be operated past December 31, 2029.

(1) The Condition 1, (Option 1) or Condition 3 (Option 1) actions specified in Boeing Special Attention Requirements Bulletin 737–78–1106 RB, dated September 1, 2023.

(2) The Condition 1, (Option 2) or Condition 3 (Option 2) action specified in Boeing Special Attention Requirements Bulletin 737–78–1106 RB, dated September 1, 2023.

(3) The determination that the primary exhaust nozzles are not affected as specified in Condition 2 or Condition 4 of Boeing Special Attention Requirements Bulletin 737–78–1106 RB, dated September 1, 2023.

(i) No Alternative Actions

After the existing maintenance or inspection program has been revised as required by paragraph (h) of this AD, no alternative actions may be used unless the actions are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j) of this AD.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, AIR–520, Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, AIR–520, Continued Operational Safety Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(k) Related Information

For more information about this AD, contact Luis Cortez-Muniz, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone: 206–231–3958; *email: luis.a.cortez-muniz@faa.gov*.

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) 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) Boeing Special Attention Requirements Bulletin 737–78–1106 RB, dated September 1, 2023.

(ii) [Reserved]

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website myboeingfleet.com.

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th

St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(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 December 1, 2023.

Victor Wicklund,

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

[FR Doc. 2023–27101 Filed 12–11–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–2236; Project Identifier AD–2023–00962–T]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. This proposed AD was prompted by two engine fan blade-out (FBO) events that resulted in the separation of engine inlet cowl and fan cowl parts from the airplane. In one event, fan cowl parts damaged the fuselage, which caused loss of pressurization and subsequent emergency descent. This proposed AD would require replacing specified inlet cowl aft bulkhead fasteners for certain airplanes; for certain other airplanes, inspecting the inlet cowl aft bulkhead fastener and replacing the fasteners if rivets are found, and, for all airplanes, replacement of the crushable spacers used in the attachment of the inlet cowl to the engine fan case; or as an option, installing a serviceable inlet cowl. This proposed AD would also require revising the existing maintenance or inspection program, as applicable, to incorporate new airworthiness limitations. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by January 26, 2024.

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.
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- *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–2023–2236; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

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- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* by searching for and locating Docket No. FAA–2023–2236.

FOR FURTHER INFORMATION CONTACT: Luis Cortez-Muniz, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3958; email: *luis.a.cortez-muniz@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–2023–2236; Project Identifier AD–2023–00962–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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Background

The FAA received two reports of engine events that resulted in the separation of engine inlet cowl and fan cowl parts from the airplane. One event occurred in August 2016 on a Boeing Model 737–700 series airplane powered by a CFM56–7B engine. The left engine failed due to the FBO but the airplane landed successfully. The second event occurred on April 17, 2018, on a Boeing Model 737–700 series airplane powered by a CFM56–7B engine. In that event, an FBO occurrence resulted in the release of fan cowl parts and the engine cowling departing the airplane. The fan cowl parts damaged the fuselage, which caused loss of pressurization and subsequent emergency descent. Although the airplane landed safely, there was one passenger fatality. In that event, the suspected cause of the FBO occurrence was a low-cycle fatigue crack in the dovetail of fan blade number 13 of engine number 1. The broken fan blade hit the engine fan case at a critical location causing a significant impulse, displacement, and

imbalance of the fan rotor effecting the structural integrity of the engine cowling.

In response to these events, the FAA issued two AD actions for the CFM International S.A. (CFM) Model CFM56–7B engines. The FAA issued emergency AD 2018–09–51, Amendment 39–19287 (83 FR 23794, May 23, 2018) (AD 2018–09–51), which requires a one-time ultrasonic inspection of the concave and convex sides of the fan blade dovetail. The FAA also issued AD 2018–26–01, Amendment 39–19531 (83 FR 66090, December 26, 2018) (AD 2018–26–01), which requires initial and repetitive inspections of the concave and convex sides of the fan blade dovetail to detect cracking and replacement of any blades found. The FAA issued AD 2018–09–51 to address fan blade failure due to cracking, which could result in an engine in-flight shutdown (IFSD), uncontained release of debris, damage to the engine, damage to the airplane, and possible airplane decompression. The FAA issued AD 2018–26–01 to address failure of the fan blade, which could result in the engine inlet cowl disintegrating and debris penetrating the fuselage, causing a loss of pressurization, and prompting an emergency descent.

Since AD 2018–09–51 and AD 2018–26–01 were issued, the FAA has determined further rulemaking is necessary to reduce the probability of unsecured nacelle components, should an engine fan blade failure occur. As evidenced by Exemption No. 19212, dated July 13, 2022 (Docket No. FAA–2023–2236), Boeing developed modifications to the inlet cowl, fan cowl, and exhaust nozzle that must be accomplished prior to July 31, 2028. Boeing petitioned and the FAA later agreed to amend Exemption No. 19212 to 19212A, which added a requirement that solutions to address potential maintenance errors must be incorporated prior to December 31, 2029. However, to implement these design changes, the FAA must issue rulemaking to address the unsafe condition.

This proposed AD would address inlet cowls that are not strengthened, which could, in the event of an FBO occurrence, depart the airplane potentially damaging the airframe structure, or the inlet cowl could strike the fuselage and window. The unsafe condition, if not addressed, could result in loss of control of the airplane, and hazard to window-seated passengers aft of the wing. In addition, the unsafe condition could result in significantly increased drag of the airplane, which during an extended operations (ETOPS) flight, could lead to fuel starvation and a forced off-airplane landing.

FAA's Determination

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.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Special Attention Requirements Bulletin 737–71–1938 RB, dated July 27, 2023. This service information specifies procedures to accomplish replacement of specified inlet cowl aft bulkhead fasteners for certain airplanes; for certain other airplanes, an inlet cowl aft bulkhead fastener inspection and fastener replacement of the inlet cowl aft bulkhead fasteners if rivets are found, and, for all airplanes, replacement of the crushable spacers used in the attachment of the inlet cowl to the engine fan case for engine 1 and engine 2; or as an option, installation of a serviceable inlet cowl with new crushable spacers.

The service information also requires revision of the operator's maintenance or inspection program, as applicable, by incorporating certain airworthiness limitations (AWLs).

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**.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in the service information already described, except as discussed under ''Differences Between this Proposed AD and the Service Information'' and except for any differences identified as exceptions in the regulatory text of this proposed AD. For information on the procedures and compliance times, see this service information at *regulations.gov* under Docket No. FAA–2023–2236.

This proposed AD would require revisions to certain operator maintenance documents to include new airworthiness limitations. Compliance with these limitations is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (j) of this proposed AD.

Differences Between This Proposed AD and the Service Information

Boeing Special Attention Requirements Bulletin 737–71–1938 RB, dated July 27, 2023, identifies ''System Airworthiness Limitation NO. 2—Fan Blade Out Conditions,'' and ''System Airworthiness Limitation NO. 3—Fan Blade Out Conditions'' as the airworthiness limitations that must be incorporated. In addition to those limitations, the FAA has determined that ''System Airworthiness Limitation NO. 4—Engine Nacelle Maintenance Errors'' must also be incorporated as specified in paragraph (h) of this proposed AD. System Airworthiness Limitation NO. 4 specifically provides the limitation that mandates solutions to maintenance errors that must be accomplished prior to December 31, 2029, as required by Exemption No. 19212A.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 1,979 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
Inspection and fastener replacement (for Config 1 airplanes)/Fastener replacement (for Config 2 airplanes).	Up to 98 work-hours × $85 per hour = $8,330.	$922	Up to $9,252	Up to $18,309,708.
Crushable spacer replacement	16 work-hours × $85 per hour = $1,360.	14,878	$16,238	$32,135,002.

* The option to install a serviceable inlet cowl would cost up to $25,490 per product.

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the agency estimates the average total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

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:

The Boeing Company: Docket No. FAA–2023–2236; Project Identifier AD–2023–00962–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by January 26, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 71, Powerplant.

(e) Unsafe Condition

This AD was prompted by two engine fan blade-out (FBO) events that resulted in the separation of engine inlet cowl and fan cowl parts from the airplane. In one event, fan cowl parts damaged the fuselage, which caused loss of pressurization and subsequential emergency descent. The FAA is issuing this AD to address inlet cowls that are not strengthened, which, in the event of an FBO occurrence, could depart the airplane potentially damaging the airframe structure, or the inlet cowl could strike the fuselage and window. The unsafe condition, if not addressed, could result in loss of control of the airplane and hazard to window-seated passengers aft of the wing. In addition, the unsafe condition could result in significantly increased drag of the airplane, which during an extended operations (ETOPS) flight, could lead to fuel starvation and a forced off-airplane landing.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Special Attention Requirements Bulletin 737–71–1938 RB, dated July 27, 2023, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Special Attention Requirements Bulletin 737–71–1938 RB, dated July 27, 2023.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Special Attention Service Bulletin 737–71–1938, dated July 27, 2023, which is referred to in Boeing Special Attention Requirements Bulletin 737–71–1938 RB, dated July 27, 2023.

(h) Exceptions to Service Information Specifications

Where Tables 1 through 4 of Boeing Special Attention Requirements Bulletin 737–71–1938 RB, dated July 27, 2023, specify incorporating 737–600/700/700C/800/900/900ER Airworthiness Limitations (AWLs) document D626A001–9–01 ''System Airworthiness Limitation NO. 2—Fan Blade Out Conditions'' and ''System Airworthiness Limitation NO. 3—Fan Blade Out Conditions'' into the operators maintenance program, this AD requires revising the existing maintenance or inspection program, as applicable, by incorporating the information specified in Figure 1 to the introductory text of paragraph (h) of this AD into the airworthiness limitations within 90 days after the effective date of this AD, or within the applicable time specified in paragraph (h)(1) or (2) of this AD, whichever occurs first.

Figure 1 to the Introductory Text of Paragraph (h)—System Airworthiness Limitations

SYSTEM AIRWORTHINESS LIMITATION No. 2
FAN BLADE OUT CONDITIONS
All aircraft must install the following modifications: (1) engine inlets with new spacer design and increased fastener capability (2) fan cowls with new radial restraint fitting hooks, new radial restraint clips, and an external doubler at the starter vent (3) fan cowl support beam fastener changes (except for 737-900ER aircraft, because the fan cowl support beam fastener changes are already incorporated). All aircraft that have not incorporated these modifications cannot operate past July 31, 2028 unless upgraded to new hardware that is fully compliant to §§25.901(c) and Appendix K25.1.1 to Part 25. Boeing will release all service data to allow retrofit of hardware updates to the CFM56-7B nacelle prior to that date.

SYSTEM AIRWORTHINESS LIMITATION No. 3
FAN BLADE OUT CONDITIONS
All aircraft delivered without the Performance Improvement Package (PIP) must install engine exhaust nozzle structural stiffening elements. All aircraft that have not incorporated these modifications cannot operate past July 31, 2028 unless upgraded to new hardware that is fully compliant to §§25.901(c) and Appendix K25.1.1 to Part 25. Boeing will release all service data to allow retrofit of hardware updates to the CFM56-7B nacelle prior to that date.

SYSTEM AIRWORTHINESS LIMITATION No. 4
ENGINE NACELLE MAINTENANCE ERRORS
All aircraft must incorporate solutions to address potential maintenance errors, e.g., the failure to completely latch the fan cowl or the fan cowl integrated drive generator (IDG) door. All aircraft that have not incorporated changes to become fully compliant with §§25.901(c) and Appendix K25.1.1 to Part 25 cannot be operated past December 31, 2029.

(1) For Group 1 Configuration 1 airplanes identified in Boeing Special Attention Requirements Bulletin 737–71–1938 RB, dated July 27, 2023: Before further flight after accomplishing the (Option 1) or (Option 2) actions in Boeing Special Attention Requirements Bulletin 737–71–1938 RB, dated July 27, 2023.

(2) For Group 1 Configuration 2 airplanes identified in Boeing Special Attention Requirements Bulletin 737–71–1938 RB, dated July 27, 2023: Before further flight after accomplishing any of the actions specified in paragraphs (h)(2)(i) and (ii) of this AD.

(i) The Condition 1 or Condition 2 actions specified in Boeing Special Attention Requirements Bulletin 737–71–1938 RB, dated July 27, 2023.

(ii) The (Option 2) actions specified in Boeing Special Attention Requirements Bulletin 737–71–1938 RB, dated July 27, 2023.

(i) No Alternative Actions

After the existing maintenance or inspection program has been revised as required by paragraph (h) of this AD, no alternative actions may be used unless the actions are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j) of this AD.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, AIR–520, Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, AIR–520, Continued Operational Safety Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(k) Related Information

For more information about this AD, contact Luis Cortez-Muniz, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3958; email: *luis.a.cortez-muniz@faa.gov.*

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) 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) Boeing Special Attention Requirements Bulletin 737–71–1938 RB, dated July 27, 2023.

(ii) [Reserved]

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website *myboeingfleet.com.*

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(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 December 4, 2023.

Victor Wicklund,

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

[FR Doc. 2023–27099 Filed 12–11–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–2237; Project Identifier AD–2023–01057–E]

RIN 2120–AA64

Airworthiness Directives; International Aero Engines, LLC Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2022–19–15, which applies to certain International Aero Engines, LLC (IAE LLC) Model PW1100G series engines; and AD 2023–16–07, which applies to certain IAE LLC Model PW1100G series engines and PW1400G series engines. AD 2022–19–15 requires an angled ultrasonic inspection (AUSI) of the high-pressure turbine (HPT) 1st-stage disk and HPT 2nd-stage disk, and replacement if necessary. AD 2023–16–07 requires an AUSI of the HPT 1st-stage hub (also known as the HPT 1st-stage disk) and HPT 2nd-stage hub (also known as the HPT 2nd-stage disk) for cracks, and replacement if necessary, which is terminating action for AD 2022–19–15. Since the FAA issued these two ADs, an investigation determined an increased risk of powder metal anomalies for all powder metal parts in certain powder metal production campaigns, which are susceptible to failure significantly earlier than previously determined. This proposed AD would retain the AUSI requirement for certain HPT 1st-stage and HPT 2nd-stage hubs from AD 2023–16–07. This proposed AD would also require performing an AUSI of the HPT 1st-stage hub, HPT 2nd-stage hub, high-pressure compressor (HPC) 7th-stage integrally bladed rotor (IBR–7), and HPC 8th-stage integrally bladed rotor (IBR–8) for cracks and replacement if necessary. This proposed AD would also require accelerated replacement of the HPC IBR–7, HPC IBR–8, HPC rear hub, HPT 1st-stage hub, HPT 1st-stage air seal, HPT 1st-stage blade retaining plate, HPT 2nd-stage hub, HPT 2nd-stage blade retaining plate, and HPT 2nd-stage rear seal. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by January 11, 2024.

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–2023–2237; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For Pratt and Whitney (PW) service information identified in this NPRM, contact International Aero Engines, LLC, 400 Main Street, East Hartford, CT 06118; phone: (860) 565–0140; email: *help24@pw.utc.com;* website: *connect.prattwhitney.com.*
- 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: Carol Nguyen, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238–7655; email: *carol.nguyen@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–2023–2237; Project Identifier AD–2023–01057–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 the proposal because of those comments.

The FAA has been informed that PW has done some outreach with affected operators regarding the proposed corrective actions for this unsafe condition. As a result, affected operators are already aware of the proposed corrective actions and, in some cases, have already begun planning for replacement of the affected parts. Therefore, the FAA has determined that a 30-day comment period is appropriate given the particular circumstances related to the proposed correction of this unsafe condition.

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 Carol Nguyen, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2022–19–15, Amendment 39–22184 (87 FR 59660, October 3, 2022; corrected October 24, 2022 (87 FR 64156)) (AD 2022–19–15), for certain IAE LLC Model PW1122G–JM, PW1124G1–JM, PW1124G–JM, PW1127G1–JM, PW1127GA–JM, PW1127G–JM, PW1129G–JM, PW1130G–JM, PW1133GA–JM, and

PW1133G–JM engines. AD 2022–19–15 was prompted by an analysis of an event involving an International Aero Engines AG V2533–A5 model turbofan engine, which experienced an uncontained failure of an HPT 1st-stage disk that resulted in high-energy debris penetrating the engine cowling. AD 2022–19–15 requires performing an AUSI of the HPT 1st-stage disk and HPT 2nd-stage disk and, depending on the results of the inspections, replacing the HPT 1st-stage disk or HPT 2nd-stage disk. The FAA issued AD 2022–19–15 to prevent failure of the HPT 1st-stage disk and HPT 2nd-stage disk.

Since the FAA issued AD 2022–19–15, an Airbus Model A320neo airplane powered by IAE LLC Model PW1127GA–JM engines experienced a failure of the HPC IBR–7 that resulted in an engine shutdown and an aborted take-off. Following this event, the manufacturer conducted a records review of production and field-returned parts and then re-evaluated their engineering analysis methodology. The new analysis identified HPT 1st-stage hubs and HPT 2nd-stage hubs that are susceptible to failure significantly earlier than previously determined. On August 4, 2023, PW issued service information with procedures for an AUSI to detect cracks and prevent premature failure. The manufacturer's updated analysis also identified PW1400G series engines that contain HPT 1st-stage hubs and HPT 2nd-stage hubs that are also subject to the unsafe condition. The FAA determined that the new service information necessitated action much earlier than the compliance time mandated in AD 2022–19–15 and that the additional engines should also be subject to these actions. As a result, the FAA issued AD 2023–16–07, Amendment 39–22526 (88 FR 56999, August 22, 2023) (AD 2023–16–07) for certain IAE LLC Model PW1122G–JM, PW1124G1–JM, PW1124G–JM, PW1127G–JM, PW1127G1–JM, PW1127GA–JM, PW1129G–JM, PW1130G–JM, PW1133G–JM, PW1133GA–JM, PW1428G–JM, PW1428GA–JM, PW1428GH–JM, PW1431G–JM, PW1431GA–JM, and PW1431GH–JM engines. AD 2023–16–07 requires performing an AUSI of the HPT 1st-stage hub (also known as the HPT 1st-stage disk) and HPT 2nd-stage hub (also known as the HPT 2nd-stage disk) for cracks and, depending on the results of the inspections, replacing the HPT 1st-stage hub or HPT 2nd-stage hub, which was terminating action for the requirements of AD 2022–19–15. The FAA issued AD 2023–16–07 to prevent failure of the HPT 1st-stage hub and HPT 2nd-stage hub.

Actions Since the Previous ADs Were Issued

Since the FAA issued AD 2023–16–07, additional manufacturer analysis found that the failure of the HPC IBR–7 was caused by a powder metal anomaly, similar in nature to the anomalies outlined in AD 2022–19–15. The analysis also concluded that there is an increased risk of failure for additional powder metal parts in certain powder metal production campaigns, specifically the HPC IBR–7 and HPC IBR–8, and that all affected parts are susceptible to failure significantly earlier than previously determined. The condition, if not addressed, could result in uncontained hub failure, release of high-energy debris, damage to the engine, damage to the airplane, and loss of the airplane.

FAA's Determination

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.

Related Service Information Under 1 CFR Part 51

The FAA reviewed the following service information:

- PW Alert Service Bulletin (ASB) PW1000G–C–72–00–0224–00A–930A–D, Issue No: 001, dated November 3, 2023, which specifies procedures for performing an AUSI for cracks on affected HPC IBR–7 and HPC IBR–8;
- PW ASB PW1000G–C–72–00–0225–00A–930A–D Issue No: 001, dated November 3, 2023, which specifies procedures for performing an AUSI for cracks on affected HPT 1st-stage hubs and HPT 2nd-stage hubs;
- PW Service Bulletin PW1000G–C–72–00–0188–00A–930A–D, Issue No: 002, dated July 8, 2022, which was previously approved for incorporation by reference on November 7, 2022 (87 FR 59660, October 3, 2022; corrected October 24, 2022 (87 FR 64156)). This service information specifies procedures for performing an AUSI for cracks on affected HPT 1st-stage hubs and HPT 2nd-stage hubs;
- PW Special Instruction (SI) NO. 149F–23, dated August 4, 2023, which was previously approved for incorporation by reference on August 28, 2023 (88 FR 56999, August 22, 2023). This service information specifies the list of affected HPT 1st-stage hubs and HPT 2nd-stage hubs, identified by part number and serial number, installed on certain IAE LLC engines; and
- PW SI NO. 198F–23, dated November 3, 2023, which specifies the list of affected HPT 1st-stage hubs and HPT 2nd-stage hubs, identified by part number and serial number, installed on certain IAE LLC engines.

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**.

Proposed AD Requirements in This NPRM

This proposed AD would retain none of the requirements of AD 2022–19–15, but it would retain certain requirements of AD 2023–16–07. This proposed AD would require performing an AUSI of the HPT 1st-stage hub and HPT 2nd-stage hub and replacing as necessary. This proposed AD would also require performing an AUSI of the HPC IBR–7 and HPC IBR–8 for cracks and replacing as necessary. This proposed AD would also require accelerated replacement of the HPC IBR–7, HPC IBR–8, HPC rear hub, HPT 1st-stage hub, HPT 1st-stage air seal, HPT 1st-stage blade retaining plate, HPT 2nd-stage hub, HPT 2nd-stage blade retaining plate, and HPT 2nd-stage rear seal.

Interim Action

The FAA considers this proposed AD to be an interim action. The unsafe condition is still under investigation by the manufacturer and, depending on the results of that investigation, the FAA may consider further rulemaking action.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 430 engines installed on airplanes of U.S. registry. The FAA estimates that 366 engines will need replacement of the HPT 1st-stage hub; 351 engines will need replacement of the HPT 2nd-stage hub; 408 engines will replacement of the HPC IBR–7; 368 engines will need replacement of the HPC IBR–8; 283 engines will need replacement of the HPC rear hub; and 206 engines will need replacement of the HPT 1st-stage air seal, HPT 1st-stage blade retaining plate, HPT 2nd-stage blade retaining plate, and HPT 2nd-stage rear seal.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost (average pro-rated cost)	Cost per product	Cost on U.S. operators
AUSI of HPT 1st-stage hub, HPT 2nd-stage hub, HPC IBR–7, and HPC IBR–8 for cracks.	80 work-hours × $85 per hour = $6,800.	$0	$6,800	$2,924,000
Replace HPT 1st-stage hub	10 work-hours × $85 per hour = $850.	56,000	56,850	20,807,100
Replace HPT 2nd-stage hub	10 work-hours × $85 per hour = $850.	62,000	62,850	22,060,350
Replace HPC IBR–7	10 work-hours × $85 per hour = $850.	82,000	82,850	33,802,800
Replace HPC IBR–8	10 work-hours × $85 per hour = $850.	93,000	93,850	34,536,800
Replace HPC rear hub	10 work-hours × $85 per hour = $850.	132,000	132,850	37,596,550
Replace HPT 1st-stage air seal, HPT 1st-stage blade retaining plate, HPT 2nd-stage blade retaining plate, and HPT 2nd-stage rear seal.	20 work-hours × $85 per hour = $1,700.	35,000	36,700	7,560,200

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some of the costs of this 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 that the 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:

■ a. Removing Airworthiness Directive 2022–19–15, Amendment 39–22184 (87 FR 59660; corrected October 3, 2022 (87 FR 64156)); and Airworthiness Directive 2023–16–07, Amendment 39–22526 (88 FR 56999, August 22, 2023); and

■ b. Adding the following new airworthiness directive:

International Aero Engines, LLC: Docket No. FAA–2023–2237; Project Identifier AD–2023–01057–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by January 11, 2024.

(b) Affected ADs

(1) This AD replaces AD 2022–19–15, Amendment 39–22184 (87 FR 59660, October 3, 2022; corrected October 24, 2022 (87 FR 64156)).

(2) This AD replaces AD 2023–16–07, Amendment 39–22526 (88 FR 56999, August 22, 2023) (AD 2023–16–07).

(c) Applicability

This AD applies to International Aero Engines, LLC (IAE LLC) Model PW1122G–JM, PW1124G1–JM, PW1124G–JM, PW1127G–JM, PW1127G1–JM, PW1127GA–JM, PW1129G–JM, PW1130G–JM, PW1133G–JM, PW1133GA–JM, PW1428G–JM, PW1428GA–JM, PW1428GH–JM, PW1431G–JM, PW1431GA–JM, and PW1431GH–JM engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7230, Turbine Engine Compressor Section; 7250, Turbine Section.

(e) Unsafe Condition

This AD was prompted by an analysis of an event involving an IAE LLC Model PW1127GA–JM engine, which experienced failure of a high-pressure compressor (HPC) 7th-stage integrally bladed rotor (IBR–7) that resulted in an engine shutdown and aborted takeoff. The FAA is issuing this AD to prevent failure of the high-pressure turbine (HPT) 1st-stage hub, HPT 2nd-stage hub, HPC IBR–7, and HPC 8th-stage integrally bladed rotor (IBR–8). The unsafe condition, if not addressed, could result in uncontained hub

failure, release of high-energy debris, 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) Retained Inspections From AD 2023–16–07, With No Changes

(1) This paragraph restates the requirements of paragraph (g)(1) of AD 2023–16–07. For Group 1 and Group 2 engines with an installed HPT 1st-stage hub having part number (P/N) 30G7301 and a serial number (S/N) listed in Tables 1, 2, 3, or 4 of Pratt & Whitney (PW) Special Instruction (SI) NO. 149F–23, dated August 4, 2023 (PW SI NO. 149F–23), within 30 days after August 28, 2023 (the effective date of AD 2023–16–07), perform an AUSI of the HPT 1st-stage hubs for cracks in accordance with the Accomplishment Instructions, paragraph 9.A. or 9.B., as applicable, of PW Service Bulletin PW1000G–C–72–00–0188–00A–930A–D, Issue No: 002, dated July 8, 2022 (PW1000G–C–72–00–0188–00A–930A–D, Issue 002).

(2) This paragraph restates the requirements of paragraph (g)(2) of AD 2023–16–07. For Group 1 and Group 2 engines with an installed HPT 2nd-stage hub having P/N 30G6602 and an S/N listed in Tables 1, 2, 3, or 4 of PW SI NO. 149F–23, within 30 days after August 28, 2023 (the effective date of AD 2023–16–07), perform an AUSI of the HPT 2nd-stage hubs for cracks in accordance with the Accomplishment Instructions, paragraph 9.C. or 9.D., as applicable, of PW1000G–C–72–00–0188–00A–930A–D, Issue 002.

(h) New Required Actions

(1) For Group 1 and Group 2 engines with an installed HPC IBR–7 having part number (P/N) 30G2307 or 30G4407 or an installed HPC IBR–8 having P/N, 30G5608, 30G5908 or 30G8908, at the next HPC engine shop visit and thereafter at every HPC engine shop visit, perform an angled ultrasonic scan inspection (AUSI) of the affected HPC IBR–7 or HPC IBR–8, as applicable, for cracks in accordance with the Accomplishment Instructions, paragraph 4.E.(1) or 4.E.(2), of PW Alert Service Bulletin (ASB) PW1000G–C–72–00–0224–00A–930A–D, Issue No: 001, dated November 3, 2023.

(2) For Group 1 and Group 2 engines with an installed HPT 1st-stage hub having P/N 30G7301 or an HPT 2nd-stage hub having P/N 30G6602, before exceeding the applicable compliance time in Table 1 to paragraph (h)(2) of this AD, except as required by paragraphs (g)(1) and (2) and paragraph (h)(5) of this AD, perform an AUSI of the affected HPT 1st-stage hub or HPT 2nd-stage hub, as applicable, for cracks in accordance with the Accomplishment Instructions, paragraph 1.D.(7)(a) or 1.D.(7)(b) of PW ASB PW1000G–C–72–00–0225–00A–930A–D Issue No: 001, dated November 3, 2023 (PW ASB PW1000G–C–72–00–0225–00A–930A–D). Thereafter, repeat the AUSI at the applicable interval in Table 1 to paragraph (h)(2) of this AD.

TABLE 1 TO PARAGRAPH (h)(2)—AUSI COMPLIANCE TIMES

Engine group	AUSI performed prior to effective date of this AD	Compliance time	Repetitive interval
1	No	Before accumulating 3,800 cycles since new (CSN) or within 100 flight cycles (FCs) after the effective date of this AD, whichever occurs later.	Thereafter at each HPT engine shop visit or before exceeding 3,800 FCs from the last AUSI of the affected hub, whichever occurs first.
1	Yes	At the next HPT engine shop visit, not to exceed 3,800 FCs since the previous AUSI, or within 100 FCs after the effective date of this AD, whichever occurs later.	Thereafter at each HPT engine shop visit or before exceeding 3,800 FCs from the last AUSI of the affected hub, whichever occurs first.
2	No	Before accumulating 2,800 CSN or within 100 FCs after the effective date of this AD, whichever occurs later.	Thereafter at each HPT engine shop visit or before exceeding 2,800 FCs from the last angled AUSI of the affected hub, whichever occurs first.
2	Yes	At the next HPT engine shop visit, not to exceed 2,800 FCs since the previous AUSI, or within 100 FCs after the effective date of this AD, whichever occurs later.	Thereafter at each HPT engine shop visit or before exceeding 2,800 FCs from the last AUSI of the affected hub, whichever occurs first.

(3) For Group 1 and Group 2 engines with an installed part listed in Table 2 to paragraph (h)(3) of this AD, before exceeding the applicable compliance times specified in Table 2 to paragraph (h)(3) of this AD, remove the affected part from service and replace with a part eligible for installation.

TABLE 2 TO PARAGRAPH (h)(3)—PART REPLACEMENT COMPLIANCE TIMES

Engine group	Part name	Part No.	Compliance time
1 and 2	HPC rear hub	30G4008	At the next HPC shop visit or HPT shop visit, whichever occurs first after the effective date of this AD.
1 and 2	HPT 1st-stage hub	30G4201 or 30G6201	At the next HPT engine shop visit, except as required by paragraphs (h)(4) and (6) of this AD.
	HPT 2nd-stage hub	30G3902 or 30G5502.	
	HPT 1st-stage front air seal	30G3994 or 30G4674.	
	HPT 2nd-stage rear air seal	30G2452.	
	HPT 1st-stage blade retaining plate.	30G2446.	
	HPT 2nd-stage blade retaining plate.	30G2447.	
1	HPC rear hub	30G8208	Before accumulating 7,000 CSN or within 100 FCs after the effective date of this AD, whichever occurs later.
	HPC IBR–7	30G2307 or 30G4407	
	HPC IBR–8	30G5608 or 30G5908 or 30G8908.	
	HPT 1st-stage hub	30G7301.	
	HPT 2nd-stage hub	30G6602.	

TABLE 2 TO PARAGRAPH (h)(3)—PART REPLACEMENT COMPLIANCE TIMES—Continued

Engine group	Part name	Part No.	Compliance time
2	HPC rear hub HPC IBR–7 HPC IBR–8 HPT 1st-stage hub HPT 2nd-stage hub	30G8208 30G2307 or 30G4407 30G5608 or 30G5908 or 30G8908. 30G7301. 30G6602.	Before accumulating 5,000 CSN or within 100 FCs after the effective date of this AD, whichever occurs later.

(4) For Group 1 and Group 2 engines with an installed HPT 1st-stage hub having P/N 30G6201 or an HPT 2nd-stage hub having P/N 30G5502 and an S/N listed in Tables 1, 2, 3, or 4 of PW SI NO. 149F–23 that has not had an AUSI performed before the effective date of the AD, before further flight, remove the affected hub from service.

(5) For Group 1 and Group 2 engines with an installed HPT 1st-stage hub having P/N 30G7301 or an HPT 2nd-stage hub having P/N 30G6602 with an S/N listed in Tables 1, 2, 3, or 4 of PW SI NO. 198F–23, dated November 3, 2023, within 100 FC after the effective date of this AD, perform an AUSI of the affected hub for cracks in accordance with the Accomplishment Instructions, paragraph 1.D.(7)(a) or 1.D.(7)(b) of PW ASB PW1000G–C–72–00–0225–00A–930A–D.

(6) For Group 1 and Group 2 engines with an installed HPT 1st-stage hub having P/N 30G6201 or an HPT 2nd-stage hub having P/N 30G5502 with an S/N listed in Tables 1, 2, 3, or 4 of PW SI NO. 198F–23, dated November 3, 2023, within 100 FC after the effective date of this AD, remove the hub from service and replace with a part eligible for installation.

(7) If any crack is found during any inspection required by this AD, before further flight, remove the affected part from service and replace with a part eligible for installation.

(8) If an affected part has accumulated 100 FCs or less since the last AUSI, reinspection is not required provided that the part was not damaged during removal from the engine.

(i) Definitions

(1) For the purposes of this AD, ''Group 1 engines'' are IAE LLC Model PW1122G–JM, PW1124G1–JM, PW1124G–JM, PW1127G–JM, PW1127G1–JM, and PW1127GA–JM engines.

(2) For the purposes of this AD, ''Group 2 engines'' are IAE LLC Model PW1129G–JM, PW1130G–JM, PW1133G–JM, PW1133GA–JM, PW1428G–JM, PW1428GA–JM, PW1428GH–JM, PW1431G–JM, PW1431GA–JM, and PW1431GH–JM engines.

(3) For the purposes of this AD, an ''HPC engine shop visit'' is the induction of an engine into the shop for maintenance involving the separation of the H-flange.

(4) For the purposes of this AD, an ''HPT engine shop visit'' is the induction of an engine into the shop for maintenance involving the separation of the M-flange.

(5) For the purposes of this AD, a ''part eligible for installation'' is:

(i) An HPC IBR–7 having P/N 30G2307 or 30G4407, that has passed the AUSI required by paragraph (h)(1) of this AD or later approved P/N.

(ii) An HPC IBR–8 having, P/N 30G5608, 30G5908, or 30G8908 that has passed the AUSI required by paragraph (h)(1) of this AD or later approved P/N.

(iii) An HPT 1st-stage hub having P/N 30G7301 that has passed the AUSI required by paragraph (h)(2) of this AD or later approved P/N.

(iv) An HPT 2nd-stage hub having P/N 30G6602 that has passed the AUSI required by paragraph (h)(2) of this AD or later approved P/N.

(v) An HPC rear hub, P/N 30G8208 or later approved P/N.

(vi) An HPT 1st-stage front air seal, P/N 30G4617 or later approved P/N.

(vii) An HPT 2nd-stage rear air seal, P/N 30G4811 or later approved P/N.

(viii) An HPT 1st-stage blade retaining plate, P/N 30G6059, 31G0018 or later approved P/N.

(j) Credit for Previous Actions

This paragraph provides credit for the actions specified in paragraph (g)(1) and (2) of this AD, if those actions were performed before the effective date of this AD using PW Service Bulletin PW1000G–C–72–00–0188–00A–930A–D, Issue No: 001, dated September 13, 2021. This service information is not incorporated by reference in this AD.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, AIR–520 Continued Operational Safety 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 AIR–520 Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (l)(1) of this AD.

(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

(1) For more information about this AD, contact Carol Nguyen, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238–7655; email: *carol.nguyen@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (m)(6) and (7) of this AD.

(m) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) 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.

(3) The following service information was approved for IBR on [DATE 35 DAYS AFTER PUBLICATION OF THE FINAL RULE].

(i) Pratt & Whitney (PW) Alert Service Bulletin PW1000G–C–72–00–0224–00A–930A–D, Issue No: 001, dated November 3, 2023.

(ii) PW Alert Service Bulletin PW1000G–C–72–00–0225–00A–930A–D, Issue No: 001, dated November 3, 2023.

(iii) PW Special Instruction NO. 198F–23, dated November 3, 2023.

(4) The following service information was approved for IBR on August 28, 2023 (88 FR 56999, August 22, 2023).

(i) PW Special Instruction NO. 149F–23, dated August 4, 2023.

(ii) [Reserved]

(5) The following service information was approved for IBR on November 7, 2022 (87 FR 59660, October 3, 2022; corrected October 24, 2022 (87 FR 64156)).

(i) PW Service Bulletin PW1000G–C–72–00–0188–00A–930A–D, Issue No: 002, dated July 8, 2022.

(ii) [Reserved]

(6) For PW service information identified in this AD, contact International Aero Engines, LLC, 400 Main Street, East Hartford, CT 06118; phone: (860) 565–0140; email: *help24@pw.utc.com;* website: *connect.prattwhitney.com.*

(7) 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.

(8) 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 December 4, 2023.

Victor Wicklund,

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

[FR Doc. 2023–27047 Filed 12–11–23; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2023–0371; FRL–11173–01–R9]

Air Plan Approval; California; Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Ventura County Air Pollution Control District (VCAPCD) portion of the California State Implementation Plan (SIP). These revisions concern definitions applicable to local rules that control emissions of volatile organic compounds (VOCs) from processing, production, gathering, and separation of crude oil and natural gas, and the transfer and storage of reactive organic compound liquids and petroleum material. We are proposing to approve a local rule to regulate these emission sources under the Clean Air Act (CAA or ''the Act''). We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must be received on or before January 11, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2023–0371 at *https://www.regulations.gov*. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Donnique Sherman, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947–4129 or by email at *sherman.donnique@epa.gov.*

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

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I. The State's Submittal

A. What rule did the State submit?

Table 1 lists the rule addressed by this proposal with the dates that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Revised	Submitted
VCAPCD	71	Crude Oil and Reactive Organic Compound Liquids	5/11/2021	10/15/2021

On April 15, 2022, the submittal for VCAPCD Rule 71 was deemed by operation of law to meet the completeness criteria in 40 CFR part 51, Appendix V, which must be met before formal EPA review.

B. Are there other versions of this rule?

We approved an earlier version of Rule 71 into the SIP on February 29, 1996 (61 FR 7706). The VCAPCD adopted revisions to the SIP-approved version on May 11, 2021, that CARB submitted to us on October 15, 2021.

C. What is the purpose of the submitted rule revisions?

Emissions of VOCs contribute to the production of ground-level ozone, smog, and particulate matter that harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Rule 71 was revised to incorporate definitions in VCAPCD Rules 71.3, ''Transfer of Reactive Organic Compound Liquids,'' (approved into the SIP on August 4, 1994 (59 FR 64330), and locally revised on May 11, 2021), and 74.10, ''Components at Crude Oil and Natural Gas Production and Processing Facilities,'' (approved into the SIP on August 19, 1999, 64 FR 45175).

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the rule?

Rules in the SIP must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Generally, SIP rules must require reasonably available control technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source of VOCs in ozone nonattainment areas classified as ''Moderate'' or above (see CAA section 182(b)(2)). The VCAPCD regulates an ozone nonattainment area classified as ''Serious'' for the 2008 and 2015 8-hour ozone National Ambient Air Quality Standards (NAAQS) (see 40 CFR 81.305). Therefore, its rules must require RACT where applicable.

Guidance and policy documents that we used to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).

2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).

3. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region IX, August 21, 2001 (the Little Bluebook).

4. ''Control Techniques Guidelines for the Oil and Natural Gas Industry,'' EPA–453/B–16–001, October 2016.

B. Does the rule meet the evaluation criteria?

This rule meets CAA requirements and is consistent with relevant guidance regarding enforceability and SIP revisions. The TSD has more information on our evaluation.

C. EPA Recommendations To Further Improve the Rule

The TSD includes recommendations for the next time VCAPCD modifies the rule.

D. Public Comment and Proposed Action

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rule because it fulfills all relevant requirements. We will accept comments from the public on this proposal until January 11, 2024. If we take final action to approve the submitted rule, our final action will incorporate this rule into the federally enforceable SIP.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference VCAPCD Rule 71, revised on May 11, 2021, which regulates definitions of terms. The EPA has made, and will continue to make, these materials available through *https://www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 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 proposes to approve a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. 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. The 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.'' The 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 State 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. The 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, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 2, 2023.

Martha Guzman Aceves,

Regional Administrator, Region IX.

[FR Doc. 2023–27108 Filed 12–11–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[EPA–R04–OAR–2023–0535; FRL–11589–01–R4]

Outer Continental Shelf Air Regulations; Consistency Update for North Carolina

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; consistency update.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to update a portion of the Outer Continental Shelf (OCS) Air Regulations. Requirements applying to OCS sources located within 25 miles of States' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area (COA), as

mandated by section 328(a)(1) of the Clean Air Act (CAA). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources for which North Carolina is the designated COA. North Carolina's requirements discussed in this document are proposed to be incorporated by reference into the Code of Federal Regulations and listed in the appendix to the OCS air regulations.

DATES: Written comments must be received on or before January 11, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2023–0535 at *https://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: Kathleen Weil, Air Permits Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9170. Ms. Weil can also be reached via electronic mail at *weil.kathleen@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On September 4, 1992, EPA promulgated 40 CFR part 55, which established requirements to control air pollution from OCS sources in order to attain and maintain Federal and State ambient air quality standards and to comply with the provisions of part C of title I of the CAA. The regulations at 40 CFR part 55 apply to all OCS sources except those located in the Gulf of Mexico west of 87.5 degrees longitude. *See* 40 CFR 55.3(a). Section 328 of the CAA requires that for such sources located within 25 miles of a State's seaward boundary, the requirements shall be the same as would be applicable if the sources were located in the COA. Because the OCS requirements are based on onshore requirements, and onshore requirements may change, section 328(a)(1) requires that EPA update the OCS requirements as necessary to maintain consistency with onshore requirements.

Pursuant to 40 CFR 55.12, consistency reviews will occur: (1) At least annually where an OCS activity is occurring within 25 miles of a State seaward boundary; (2) upon receipt of a Notice of Intent (NOI) under 40 CFR 55.4; or (3) when a State or local agency submits a rule to EPA to be considered for incorporation by reference in 40 CFR part 55. This proposed action is being taken in preparation for a potential upcoming OCS project due to receipt of an NOI. Public comments received in writing within 30 days of publication of this document will be considered by EPA before publishing a final rule.

Section 328(a) of the CAA requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of States' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into 40 CFR part 55 as they exist onshore. This limits EPA's flexibility in deciding which requirements will be incorporated into 40 CFR part 55 and prevents EPA from making substantive changes to the requirements it incorporates. As a result, EPA may be incorporating rules into 40 CFR part 55 that do not conform to all of EPA's State Implementation Plan (SIP) guidance or certain requirements of the CAA. Consistency updates may result in the inclusion of State or local rules or regulations into 40 CFR part 55, even though the same rules may ultimately be disapproved for inclusion as part of the SIP. Inclusion in the OCS rule does not imply that a rule meets the requirements of the CAA for SIP approval, nor does it imply that the rule will be approved by EPA for inclusion in the SIP.

II. EPA Analysis

EPA reviewed North Carolina's rules for inclusion in 40 CFR part 55 to ensure that they are rationally related to the attainment or maintenance of Federal or State ambient air quality standards and compliance with part C of title I of the CAA, that they are not designed expressly to prevent exploration and development of the OCS, and that they are potentially applicable to OCS sources. *See* 40 CFR 55.1. EPA has also evaluated the rules to ensure they are not arbitrary or capricious. *See* 40 CFR 55.12(e). In addition, EPA has excluded administrative or procedural rules, and requirements that regulate toxics which are not related to the attainment and maintenance of Federal and State ambient air quality standards.[1]

III. Proposed Action

EPA last did a consistency update for North Carolina on March 3, 2009 (74 FR 9166). In that action, EPA incorporated by reference into 40 CFR part 55 all North Carolina regulations that EPA believed were relevant to the OCS requirements. For this proposed action, EPA has reviewed changes that North Carolina has made to its underlying regulatory programs since the last consistency update. This proposed action will have no effect on any provisions that were not subject to changes by North Carolina and were also previously incorporated by reference into Part 55 through EPA's March 3, 2009, rulemaking. The rules that EPA proposes to incorporate are applicable provisions of the North Carolina Administrative Code (NCAC) and are listed in detail at the end of this Notice. The intended effect of proposing approval of the OCS requirements for the North Carolina Department of Environmental Quality (NCDEQ) is to regulate emissions from OCS sources in accordance with the requirements for onshore sources. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, and as discussed in Sections II and III of this preamble, EPA is proposing to incorporate by reference the North Carolina rules set forth below. EPA has made, and will continue to make, these materials available through *www.regulations.gov* and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER**

[1] Each COA which has been delegated the authority to implement and enforce 40 CFR part 55 will use its administrative and procedural rules as onshore. However, in those instances where EPA has not delegated authority to implement and enforce 40 CFR part 55, EPA will use its own administrative and procedural requirements to implement the substantive requirements. *See* 40 CFR 55.14(c)(4).

INFORMATION CONTACT section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to establish requirements to control air pollution from OCS sources located within 25 miles of States' seaward boundaries that are the same as onshore air pollution control requirements. To comply with this statutory mandate, the EPA must incorporate applicable onshore rules into 40 CFR part 55 as they exist onshore. *See* 42 U.S.C. 7627(a)(1); 40 CFR 55.12. Thus, in promulgating OCS consistency updates, EPA's role is to maintain consistency between OCS regulations and the regulations of onshore areas, provided that they meet the criteria of the CAA. Accordingly, this proposed action simply proposes to update the existing OCS requirements that have been revised since the last consistency review to make them consistent with requirements onshore, without the exercise of any policy direction by EPA. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

Additionally, Executive Order 12898 (59 FR 7629, February 16, 1994) directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations (people of color and/or Indigenous peoples) and low-income populations.

EPA believes that this specific proposed action does not concern human health or environmental conditions and therefore cannot be evaluated with respect to potentially disproportionate and adverse effects on people of color, low-income populations and/or Indigenous peoples. This proposed action simply fulfills EPA's statutory mandate to ensure regulatory consistency between the COA and inner OCS consistent with the Stated objectives of CAA section 328(a)(1). Specifically, section 328(a)(1) requires EPA to establish requirements to control air pollution from OCS sources ''to attain and maintain Federal and State ambient air quality standards and to comply with the provisions of part C of [title I of the CAA]'' and, for inner OCS sources (located within 25 miles of the seaward boundary of such States), to establish requirements that are ''the same as would be applicable if the source were located in the COA.'' This section of the Act also States that ''the Administrator shall update such requirements as necessary to maintain consistency with onshore regulations and this chapter.'' As noted in the preamble, compliance with this requirement limits EPA's discretion in deciding what will be incorporated into 40 CFR part 55.

The State regulations relevant to the OCS that are proposed for incorporation into the CFR went through North Carolina's public rulemaking process, including public notice and comment. This proposed action seeks to incorporate into the CFR those State regulations, which are already effective onshore, to ensure regulatory consistency with the COA as mandated by CAA section 328(a)(1). This is a routine and ministerial consistency update that does not directly affect any human health or environmental conditions. In addition, EPA is providing for meaningful public involvement on this rule through the notice and comment process.

This proposed rule to incorporate by reference sections of the NCAC into the CFR does not apply on any Indian reservation land as defined in 18 U.S.C. 1151 or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, this rule incorporating by reference sections of the NCAC 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).

This proposed action does not impose any new information collection burden under the PRA. The Office of Management and Budget (OMB) has previously approved the information collection activities contained in the existing regulations at 40 CFR part 55 and, by extension, this update to Part 55, and has assigned OMB control number 2060–0249. This proposed action does not impose a new information burden under PRA because this proposed action only proposes to update the State rules that are incorporated by reference into 40 CFR part 55, Appendix A.[2]

List of Subjects in 40 CFR Part 55

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Outer continental shelf, Ozone, Particulate matter, Permits, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 5, 2023.

Jeaneanne Gettle,

Acting Regional Administrator, Region 4.

Part 55 of Chapter I, title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 55—OUTER CONTINENTAL SHELF AIR REGULATIONS

■ 1. The authority citation for part 55 continues to read as follows:

Authority: Section 328 of the Clean Air Act (42 U.S.C. 7401 *et seq.*) as amended by Public Law 101–549.

■ 2. Amend § 55.14 by revising paragraph (e)(17)(i)(A) to read as follows:

§ 55.14 Requirements that apply to OCS sources located within 25 miles of States' seaward boundaries, by State.

* * * * *

(e) * * *

(17) * * *

(i) * * *

[2] OMB's approval of the ICR can be viewed at *www.reginfo.gov.*

(A) State of North Carolina Air Pollution Control Requirements Applicable to OCS Sources, November 8, 2023

* * * * *

■ 3. Appendix A to part 55 is amended by revising paragraph (a)(1) under the heading ''North Carolina'' to read as follows:

Appendix A to Part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, by State

* * * * *

North Carolina:

(a) * * *

(1) The following State of North Carolina requirements are applicable to OCS sources, November 8, 2023, State of North Carolina—Department of Environmental Quality.

The following sections of subchapter 02D and 02Q:

15A NCAC Subchapter 02D—Air Pollution Control Requirements

Section .0100—Definitions and References

02D. 0101 Definitions (Effective 01/01/2018)
02D. 0103 Copies of Referenced Federal Regulations (Effective 09/01/2023)
02D. 0104 Incorporation by reference (Effective 01/01/2018)
02D. 0105 Mailing List (Effective 01/01/2018)

Section .0200—Air Pollution Sources

02D. 0201 Classification of air pollution sources (Effective 01/01/2018)
02D. 0202 Registration of air pollution sources (Effective 01/01/2018)

Section .0300—Air Pollution Emergencies

02D. 0301 Purpose (Effective 01/01/2018)
02D. 0302 Episode criteria (Effective 01/01/2018)
02D. 0303 Emission reduction plans (Effective 01/01/2018)
02D. 0304 Preplanned abatement program (Effective 01/01/2018)
02D. 0305 Emission reduction plan: Alert Level (Effective 01/01/2018)
02D. 0306 Emission reduction plan: Warning Level (Effective 01/01/2018)
02D. 0307 Emission reduction plan: Emergency Level (Effective 01/01/2018)

Section .0400—Ambient Air Quality Standards

02D. 0401 Purpose (Effective 01/01/2018)
02D. 0402 Sulfur oxides (Effective 01/01/2018)
02D. 0403 Total suspended particulates (Effective 11/01/2020)
02D. 0404 Carbon monoxide (Effective 01/01/2018)
02D. 0405 Ozone (Effective 01/01/2018)
02D. 0407 Nitrogen dioxide (Effective 01/01/2018)
02D. 0408 Lead (Effective 01/01/2018)
02D. 0409 PM10 particulate matter (Effective 01/01/2018)
02D. 0410 PM2.5 particulate matter (Effective 01/01/2018)

Section .0500—Emission Control Standards

02D. 0501 Compliance with emission control standards (Effective 09/01/2023)
02D. 0502 Purpose (Effective 11/01/2020)
02D. 0503 Particulates from fuel burning indirect heat exchangers (Effective 11/01/2023)
02D. 0504 Particulates from wood burning indirect heat exchangers (Effective 11/01/2020)
02D. 0506 Particulates from hot mix asphalt plants (Effective 11/01/2023)
02D. 0507 Particulates from chemical fertilizer manufacturing plants (Effective 11/01/2020)
02D. 0508 Particulates from pulp and paper mills (Effective 11/01/2020)
02D. 0509 Particulates from Mica or Feldspar processing plants (Effective 11/01/2020)
02D. 0510 Particulates from sand, gravel, or crushed stone operations (Effective 11/01/2020)
02D. 0511 Particulates from lightweight aggregate processes (Effective 11/01/2020)
02D. 0512 Particulates from wood products finishing plants (Effective 11/01/2020)
02D. 0513 Particulates from portland cement plants (Effective 11/01/2020)
02D. 0514 Particulates from ferrous jobbing foundries (Effective 11/01/2020)
02D. 0515 Particulates from miscellaneous industrial processes (Effective 11/01/2020)
02D. 0516 Sulfur dioxide emissions from combustion sources (Effective 6/1/2023)
02D. 0517 Emissions from plants producing sulfuric acid (Effective 11/01/2020)
02D. 0519 Control of nitrogen dioxide and nitrogen oxides emissions (Effective 11/01/2020)
02D. 0521 Control of visible emissions (Effective 11/01/2020)
02D. 0524 New Source Performance Standards (Effective 11/01/2020)
02D. 0527 Emissions from spodumene ore roasting (Effective 11/01/2020)
02D. 0528 Total reduced sulfur from kraft pulp mills (Effective 11/01/2020)
02D. 0529 Fluoride emissions from primary aluminum reduction plants (Effective 11/01/2020)
02D. 0530 Prevention of significant deterioration (Effective 10/01/2020)
02D. 0531 Sources in nonattainment areas (Effective 11/01/2020)
02D. 0532 Sources contributing to an ambient violation (Effective (11/01/2023)
02D. 0533 Stack height (Effective 11/01/2020)
02D. 0534 Fluoride emissions from phosphate fertilizer industry (Effective 11/01/2020)
02D. 0535 Excess emissions reporting and malfunctions (Effective 11/01/2020)
02D. 0537 Control of mercury emissions (Effective 11/01/2020)
02D. 0538 Control of ethylene oxide emissions (Effective 11/01/2020)
02D. 0539 Odor control of feed ingredient manufacturing plants (Effective 11/01/2020)
02D. 0540 Particulates from fugitive dust emission sources (Effective 09/01/2019)
02D. 0541 Control of emissions from abrasive blasting (Effective 11/01/2020)
02D. 0542 Control of particulate emissions from cotton ginning operations (Effective 11/01/2020)
02D. 0543 Best Available Retrofit Technology (Effective 11/01/2020)
02D. 0544 Prevention of Significant Deterioration Requirements for Greenhouse Gases (Effective 11/01/2020)
02D. 0546 Control of Emissions from Log Fumigation Operations (Effective 09/01/2023)

Section .0600—Monitoring: Recordkeeping: Reporting

02D. 0601 Purpose and scope (Effective 11/01/2019)
02D. 0602 Definitions (Effective 11/01/2019)
02D. 0604 Exceptions to monitoring and reporting requirements (Effective 11/01/2019)
02D. 0605 General recordkeeping and reporting requirements (Effective 09/01/2023)
02D. 0606 Sources covered by appendix P of 40 CFR part 51 (Effective 11/01/2019)
02D. 0607 Large wood and wood-fossil fuel combination units (Effective 11/01/2019)
02D. 0608 Other large coal or residual oil burners (Effective 10/01/2022)
02D. 0610 Federal monitoring requirements (Effective 11/01/2019)
02D. 0611 Monitoring emissions from other sources (Effective 11/01/2019)
02D. 0612 Alternative monitoring and reporting procedures (Effective 11/01/2019)
02D. 0613 Quality assurance program (Effective 11/01/2019)
02D. 0614 Compliance assurance monitoring (Effective 11/01/2023)

Section .0900—Volatile Organic Compounds

02D. 0901 Definitions (Effective 11/01/2020)
02D. 0902 Applicability (Effective 11/01/2020)
02D. 0903 Recordkeeping: reporting: monitoring (Effective 11/01/2020)
02D. 0906 Circumvention (Effective 11/01/2020)
02D. 0909 Compliance schedules for sources in ozone nonattainment and maintenance areas (Effective 11/01/2020)
02D. 0912 General provisions on test methods and procedures (Effective 11/01/2020)
02D. 0918 Can coating (Effective 11/01/2023)
02D. 0919 Coil coating (Effective 11/01/2020)
02D. 0922 Metal furniture coatings (Effective 11/01/2020)
02D. 0923 Surface coating of large appliances (Effective 11/01/2020)
02D. 0924 Magnet wire coating (Effective 11/01/2020)
02D. 0925 Petroleum liquid storage in fixed roof tanks (Effective 11/01/2020)
02D. 0926 Bulk gasoline plants (Effective 11/01/2023)
02D. 0927 Bulk gasoline terminals (Effective 11/01/2023)
02D. 0928 Gasoline service stations stage I (Effective 11/01/2023)
02D. 0930 Solvent metal cleaning (Effective 11/01/2020)

02D. 0931 Cutback asphalt (Effective 11/01/2020)
02D. 0932 Gasoline cargo tanks and vapor collection systems (Effective 11/01/2023)
02D. 0933 Petroleum liquid storage in external floating roof tanks (Effective 11/01/2020)
02D. 0935 Factory surface coating of flat wood paneling (Effective 11/01/2020)
02D. 0937 Manufacture of pneumatic rubber tires (Effective 11/01/2020)
02D. 0943 Synthetic organic chemical and polymer manufacturing (Effective 10/01/2022)
02D. 0944 Manufacture of polyethylene: polypropylene and polystyrene (Effective 10/01/2020)
02D. 0945 Petroleum dry cleaning (Effective 10/01/2020)
02D. 0947 Manufacture of synthesized pharmaceutical products (Effective 11/01/2020)
02D. 0948 VOC emissions from transfer operations (Effective 11/01/2020)
02D. 0949 Storage of miscellaneous volatile organic compounds (Effective 10/1/2022)
02D. 0951 RACT for sources of volatile organic compounds (Effective 11/01/2020)
02D. 0952 Petition for alternative controls for RACT (Effective 11/01/2020)
02D. 0955 Thread bonding manufacturing (Effective 11/01/2020)
02D. 0956 Glass Christmas ornament manufacturing (Effective 11/01/2020)
02D. 0957 Commercial bakeries (Effective 11/01/2020)
02D. 0958 Work practices for sources of volatile organic compounds (Effective 11/01/2020)
02D. 0959 Petition for superior alternative controls (Effective 11/01/2020)
02D. 0960 Cargo Tank Leak Tester Report (Effective 11/01/2023)
02D. 0961 Offset Lithographic Printing and Letterpress Printing (Effective 11/01/2023)
02D. 0962 Industrial Cleaning Solvents (Effective 11/01/2020)
02D. 0963 Fiberglass Boat Manufacturing Materials (Effective 11/01/2020)
02D. 0964 Miscellaneous Industrial Adhesives (Effective 11/01/2023)
02D. 0965 Flexible Package Printing (Effective 11/01/2020)
02D. 0966 Paper, Film and Foil Coatings (Effective 11/01/2020)
02D. 0967 Miscellaneous Metal and Plastic Parts Coatings (Effective 11/01/2020)
02D. 0968 Automobile and Light Duty Truck Assembly Coatings (Effective 11/01/2020)

Section .1000—Motor Vehicle Emission Control Standard

02D. 1001 Purpose (Effective 07/01/2018)
02D. 1002 Applicability (Effective 07/01/2018)
02D. 1003 Definitions (Effective 07/01/2018)
02D. 1005 On-Board Diagnostic Standards (Effective 07/01/2018)
02D. 1006 Sale and Service of Analyzers (Effective 07/01/2018)
02D. 1008 Heavy Duty Diesel Engine Requirements (Effective 07/01/2018)

Section .1100—Control of Toxic Air Pollutants

02D. 1101 Purpose (Effective 07/01/2018)
02D. 1102 Applicability (Effective 07/01/2018)
02D. 1103 Definition (Effective 07/01/2018)
02D. 1104 Toxic air pollutant guidelines (Effective 07/01/2018)
02D. 1105 Facility reporting, recordkeeping (Effective 07/01/2018)
02D. 1106 Determination of ambient air concentration (Effective 07/01/2018)
02D. 1107 Multiple facilities (Effective 07/01/2018)
02D. 1108 Multiple pollutants (Effective 07/01/2018)
02D. 1109 112(j) case-by-case maximum achievable control technology (Effective 07/01/2018)
02D. 1110 National Emission Standards for Hazardous Air Pollutants (Effective 07/01/2018)
02D. 1111 Maximum Achievable Control Technology (Effective 07/01/2018)
02D. 1112 112(g) case by case maximum achievable control technology (Effective 07/01/2018)

Section .1200—Control of Emissions From Incinerators

02D. 1201 Purpose and scope (Effective 07/01/2018)
02D. 1202 Definitions (Effective 07/01/2018)
02D. 1204 Sewage sludge and sludge incinerators (Effective 12/01/2021)
02D. 1206 Hospital, medical, and infectious waste incinerators (Effective 07/01/2018)
02D. 1208 Other incinerators (Effective 07/01/2018)
02D. 1210 Commercial and industrial solid waste incineration units (Effective 07/01/2018)

Section .1400—Nitrogen Oxides

02D. 1401 Definitions (Effective 05/01/2022)
02D. 1402 Applicability (Effective 05/01/2022)
02D. 1403 Compliance schedules (Effective 11/01/2023)
02D. 1404 Recordkeeping: Reporting: Monitoring: (Effective 10/01/2020)
02D. 1405 Circumvention (Effective 10/01/2020)
02D. 1407 Boilers and indirect-fired process heaters (Effective 10/01/2020)
02D. 1408 Stationary combustion turbines (Effective 10/01/2020)
02D. 1409 Stationary internal combustion engines (Effective 10/01/2020)
02D. 1410 Emissions averaging (Effective 10/01/2020)
02D. 1411 Seasonal fuel switching (Effective 10/01/2020)
02D. 1412 Petition for alternative limitations (Effective 10/01/2020)
02D. 1413 Sources not otherwise listed in this section (Effective 10/01/2020)
02D. 1414 Tune-up requirements (Effective 10/01/2020)
02D. 1415 Test methods and procedures (Effective 10/01/2020)
02D. 1418 New electric generating units, large boilers, and large I/C engines (Effective 10/01/2022)
02D. 1423 Large Internal Combustion Engines (Effective 10/01/2020)
02D. 1424 Large Non-Electric Generating Units (Effective 05/01/2022)
02D. 1425 NO_X SIP Call Budget (Effective 05/01/2022)

Section .1900—Open Burning

02D. 1901 Open burning: Purpose: Scope (Effective 09/01/2019)
02D. 1902 Definitions (Effective 09/01/2019)
02D. 1903 Open burning without an air quality permit (Effective 09/01/2023)
02D. 1904 Air curtain incinerators (Effective 09/01/2023)
02D. 1905 Regional office locations (Effective 9/01/2023)
02D. 1906 Delegation to county governments (Effective 09/01/2019)
02D. 1907 Multiple violations arising from a single episode (Effective 09/01/2019)

Section .2000—Transportation Conformity

02D. 2001 Purpose, scope, and applicability (Effective 01/01/2018)
02D. 2002 Definitions (Effective 01/01/2018)
02D. 2003 Transportation conformity determination (Effective 01/01/2018)
02D. 2004 Determining transportation-related emissions (Effective 01/01/2018)
02D. 2005 Memorandum of agreement (Effective 01/01/2018)

Section .2100—Risk Management Program

02D. 2101 Applicability (Effective 11/01/2019)
02D. 2102 Definitions (Effective 11/01/2019)
02D. 2103 Requirements (Effective 11/01/2019)
02D. 2104 Implementation (Effective 11/01/2019)

Section .2200—Special Orders

02D. 2201 Purpose (Effective 01/01/2018)
02D. 2202 Definitions (Effective 01/01/2018)
02D. 2203 Public notice (Effective 01/01/2023)
02D. 2204 Final action on consent orders (Effective 01/01/2018)
02D. 2205 Notification of right to contest special orders issued without consent (Effective 01/01/2018)

Section .2300—Banking Emission Reduction Credits

02D. 2301 Purpose (Effective 11/01/2019)
02D. 2302 Definitions (Effective 11/01/2019)
02D. 2303 Applicability and eligibility (Effective 11/01/2019)
02D. 2304 Qualification of emission reduction credits (Effective 11/01/2019)
02D. 2305 Creating and banking emission reduction credits (Effective 11/01/2019)
02D. 2306 Duration of emission reduction credits (Effective 11/01/2019)
02D. 2307 Use of emission reduction credits (Effective 11/01/2019)
02D. 2308 Certificates and registry (Effective 11/01/2019)
02D. 2309 Transferring emission reduction credits (Effective 11/01/2019)

02D. 2310 Revocation and changes of emission reduction credits (Effective 11/01/2019)
02D. 2311 Monitoring (Effective 11/01/2019)

Section .2600—Source Testing

02D. 2601 Purpose and scope (Effective 11/01/2019)
02D. 2602 General provisions on test methods and procedures (Effective 11/01/2019)
02D. 2603 Testing protocol (Effective 11/01/2019)
02D. 2604 Number of test points (Effective 11/01/2019)
02D. 2605 Velocity and volume flow rate (Effective 11/01/2019)
02D. 2606 Molecular weight (Effective 11/01/2019)
02D. 2607 Determination of moisture content (Effective 11/01/2019)
02D. 2608 Number of runs and compliance determination (Effective 10/01/2022)
02D. 2609 Particulate testing methods (Effective 11/01/2019)
02D. 2610 Opacity (Effective 11/01/2019)
02D. 2611 Sulfur dioxide testing methods (Effective 11/01/2019)
02D. 2612 Nitrogen oxide testing methods (Effective 11/01/2019)
02D. 2613 Volatile organic compound testing methods (Effective 11/01/2019)
02D. 2614 Determination of VOC emission control system efficiency (Effective 11/01/2019)
02D. 2615 Determination of leak tightness and vapor leaks (Effective 10/01/2020)
02D. 2616 Fluorides (Effective 11/01/2019)
02D. 2617 Total reduced sulfur (Effective 11/01/2019)
02D. 2618 Mercury (Effective 11/01/2019)
02D. 2619 Arsenic, beryllium, cadmium, hexavalent chromium (Effective 11/01/2019)
02D. 2620 Dioxins and furans (Effective 11/01/2019)
02D. 2621 Determination of pollutant emissions using the f-factor (Effective 11/01/2019)

Subchapter 02Q—Air Quality Permits Procedures

Section .0100—General Provisions

02Q. 0101 Required air quality permits (Effective 4/1/18)
02Q. 0102 Activities exempted from permit requirements (Effective 11/01/2023)
02Q. 0103 Definitions (Effective 09/01/2022)
02Q. 0104 Where to obtain and file permit applications (Effective 09/01/2023)
02Q. 0105 Copies of referenced documents (Effective 09/01/2023)
02Q. 0106 Incorporation by reference (Effective 04/01/2018)
02Q. 0107 Confidential information (Effective 04/01/2018)
02Q. 0108 Delegation of authority (Effective 04/01/2018)
02Q. 0109 Compliance schedule for previously exempted activities (Effective 04/01/2018)
02Q. 0110 Retention of permit at permitted facility (Effective 04/01/2018)
02Q. 0111 Applicability determinations (Effective 04/01/2018)
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Section .0200—Permit Fees

02Q. 0201 Applicability (Effective 04/01/2018)
02Q. 0202 Definitions (Effective 04/01/2018)
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02Q. 0204 Inflation adjustment (Effective 04/01/2018)
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Section .0300—Construction and Operation Permits

02Q. 0301 Applicability (Effective 04/01/2018)
02Q. 0303 Definitions (Effective 04/01/2018)
02Q. 0304 Applications (Effective 09/01/2023)
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02Q. 0309 Termination, modification, and revocation of permits (Effective 04/01/2018)
02Q. 0310 Permitting of numerous similar facilities (Effective 04/01/2018)
02Q. 0311 Permitting of facilities at multiple temporary sites (Effective 04/01/2018)
02Q. 0312 Application processing schedule (Effective 04/01/2018)
02Q. 0313 Expedited application processing schedule (Effective 04/01/2018)
02Q. 0314 General requirements for all permits (Effective 04/01/2018)
02Q. 0315 Synthetic minor facilities (Effective 04/01/2018)
02Q. 0316 Administrative permit amendments (Effective 04/01/2018)
02Q. 0317 Avoidance conditions (Effective 04/01/2018)
02Q. 0318 Changes Not Requiring Permit Revisions (Effective 04/01/2018)

Section .0400—Acid Rain Procedures

02Q. 0401 Purpose and applicability (Effective 04/01/2018)
02Q. 0402 Acid rain permitting procedures (Effective 04/01/2018)

Section .0500—Title V Procedures

02Q. 0501 Purpose of section and requirement for a permit (Effective 04/01/2018)
02Q. 0502 Applicability (Effective 04/01/2018)
02Q. 0503 Definitions (Effective 9/01/2022)
02Q. 0504 Option for obtaining construction and operation permit (Effective 9/01/2022)
02Q. 0505 Application submittal content (Effective 09/01/2023)
02Q. 0507 Application (Effective 09/01/2023)
02Q. 0508 Permit content (Effective 09/01/2023)
02Q. 0509 Permitting of numerous similar facilities (Effective 09/01/2022)
02Q. 0510 Permitting of facilities at multiple temporary sites (Effective 04/01/2018)
02Q. 0512 Permit shield and application shield (Effective 04/01/2018)
02Q. 0513 Permit renewal and expiration (Effective 04/01/2018)
02Q. 0514 Administrative permit amendments (Effective 09/01/2022)
02Q. 0515 Minor permit modifications (Effective 04/01/2018)
02Q. 0516 Significant permit modification (Effective 09/01/2022)
02Q. 0517 Reopening for cause (Effective 04/01/2018)
02Q. 0518 Final action (Effective 09/01/2022)
02Q. 0519 Termination, modification, revocation of permits (Effective 04/01/2018)
02Q. 0520 Certification by responsible official (Effective 04/01/2018)
02Q. 0521 Public participation (Effective 09/01/2022)
02Q. 0522 Review by EPA and affected States (Effective 09/01/2022)
02Q. 0523 Changes not requiring permit revisions (Effective 04/01/2018)
02Q. 0524 Ownership change (Effective 04/01/2018)
02Q. 0525 Application processing schedule (Effective 09/01/2022)
02Q. 0526 112(j) case-by-case MACT procedures (Effective 08/01/2022)
02Q. 0527 Expedited application processing schedule (Effective 04/01/2018)
02Q. 0528 112(g) case-by-case MACT procedures (Effective 04/01/2018)

Section .0700—Toxic Air Pollutant Procedures

02Q. 0701 Applicability (Effective 07/01/2018)
02Q. 0702 Exemptions (Effective 07/01/2018)
02Q. 0703 Definitions (Effective 07/01/2018)
02Q. 0704 New facilities (Effective 07/01/2018)
02Q. 0706 Modifications (Effective 11/01/2023)
02Q. 0707 Previously permitted facilities (Effective 07/01/2018)
02Q. 0708 Compliance schedule for previously unknown toxic air pollutant emissions (Effective 07/01/2018)
02Q. 0709 Demonstrations (Effective 07/01/2018)
02Q. 0710 Public notice and opportunity for public hearing (Effective 09/01/2023)
02Q. 0711 Emission rates requiring a permit (Effective 07/01/2018)
02Q. 0712 Calls by the director (Effective 07/01/2018)

Section .0800—Exclusionary Rules

02Q. 0801 Purpose and scope (Effective 04/01/2018)

02Q. 0802 Gasoline service stations and dispensing facilities (Effective 04/01/2018)
02Q. 0803 Coating, solvent cleaning, graphic arts operations (Effective 04/01/2018)
02Q. 0804 Dry cleaning facilities (Effective 04/01/2018)
02Q. 0805 Grain elevators (Effective 04/01/2018)
02Q. 0806 Cotton gins (Effective 04/01/2018)
02Q. 0807 Emergency generators (Effective 04/01/2018)
02Q. 0808 Peak shaving generators (Effective 04/01/2018)
02Q. 0810 Air curtain burners (Effective 04/01/2018)

Section .0900—Permit Exemptions

02Q. 0901 Purpose and scope (Effective 04/01/2018)
02Q. 0902 Portable crushers (Effective 04/01/2018)
02Q. 0903 Emergency generators (Effective 04/01/2018)

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[FR Doc. 2023–27091 Filed 12–11–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R09–RCRA–2021–0431; FRL–8828–04–R9]

Arizona: Authorization of State Hazardous Waste Management Program Revisions; Proposed Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; correction.

SUMMARY: The Environmental Protection Agency (EPA) approved revisions to Arizona's federally authorized hazardous waste program by publishing proposed and direct final rules in the **Federal Register** on September 28, 2021. EPA inadvertently omitted a citation to Checklist 233 in the text of the proposed and direct final rule. With this correction, EPA is clarifying that Arizona has adopted Checklist 233 and is authorized for the Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule published on May 30, 2018. Additionally, EPA is clarifying that Arizona is not required to adopt Checklist 224: Withdrawal of the Emission Comparable Fuel Exclusion. Arizona did not adopt the exclusion contained in Checklist 221, and thus, does not have the exclusion as part of its authorized state program. We are proposing to correct these and related errors. EPA seeks public comment prior to taking final action.

DATES: Comments on this proposed correction must be received by January 11, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–RCRA–2021–0431, at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, *etc.*) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Sorcha Vaughan, EPA Region 9, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947–4217 or by email at *vaughan.sorcha@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. Why are corrections to the revised state program authorization necessary?

States that have received final authorization from EPA under Section 3006(b) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the federal program. As the federal program changes, states must change their programs to maintain consistency and stringency with the federal rules and must ask EPA to authorize the changes. EPA's **Federal Register** notices regarding proposed authorization of revisions to state hazardous waste management programs provide the public with an opportunity to comment and also offer details with respect to the scope of the revised program authorizations on which both the general public and the regulated community may rely. Where these notices omit critical information or fail to clearly delineate the scope of authorized program revisions, corrections may be necessary and/or appropriate.

B. What corrections is EPA making to this rule?

EPA authorized changes to Arizona's hazardous waste program with the proposed and direct to final rule on September 28, 2021 (86 FR 53558). EPA is now proposing to correct this updated authorization by: (1) clarifying that Arizona has adopted and is authorized for Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule 83 FR 24664 (May 5, 2018); and (2) recognizing that because Arizona did not adopt the exclusion contained in Checklist 221 the adoption of Checklist 224 is unnecessary. These proposed corrections to the scope of Arizona's authorized hazardous waste program would become effective if finalized.

C. What happens if EPA receives comments that oppose this proposed action?

EPA will consider all comments received during the comment period and address them in a final rule. You may not have another opportunity to comment. If you want to comment on the corrections proposed here, you must do so at this time.

D. What has Arizona previously been authorized for?

Arizona initially received final authorization to implement its base hazardous waste management program on November 20, 1985. Arizona received authorization for revisions to its program on August 6, 1991 (56 FR 37290 effective October 7, 1991), July 13, 1992 (57 FR 30905 effective September 11, 1992), November 23, 1992 (57 FR 54932 effective January 22, 1993), October 27, 1993 (58 FR 57745 effective December 27, 1993), July 18, 1995 (60 FR 36731 effective June 12, 1995), March 7, 1997 (62 FR 10464 effective May 6, 1997), October 28, 1998 (63 FR 57605–57608 effective December 28, 1998), March 17, 2004 (69 FR 12544 effective March 17, 2004, originally published on October 27, 2000 (65 FR 64369)), December 20, 2017 (82 FR 60550 effective January 20, 2018), and September 28, 2021 (86 FR 53558 effective November 29, 2021).

E. What changes is EPA proposing to authorize with this action?

EPA proposes to correct and clarify the terms of the September 28, 2021, authorization of Arizona's hazardous waste program with respect to the definition of a solid waste. EPA also proposes to acknowledge that Arizona is

not required to seek authorization for Checklist 224, as it did not adopt the associated exclusion from Checklist 221 into its state regulations.

1. Proposed Changes to the State Analogues to the Federal Program Table.

EPA is recreating in this proposal the *State Analogues to the Federal Program* table that was published in the proposed authorization update **Federal Register** notice at 86 FR 53558 (Sept. 28, 2021). EPA inadvertently omitted from the proposed and final rules that under Checklist 233 Arizona has adopted and was authorized for in 83 FR 24664 (May 30, 2018) Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule. The corrections proposed in this rule, and described above, would require modifications to the *State Analogues to the Federal Program* table published on September 28, 2021 (86 FR 53558), as follows:

Description of Federal requirement and checklist number	**Federal Register** volume, page and date	Arizona Administrative Register (A.A.R) and effective date	Arizona Administrative Code (A.A.C) implementing rule sections
NESHAP: Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II) Amendments (217).	73 FR 18970 (4/8/2008)	21 A.A.R 1246 (9/05/2015)	R18–8–264 (A). R18–8–266 (A).
F019 Exemption for Wastewater Treatment Sludges from Auto Manufacturing Zinc Phosphating Processes.	73 FR 31756 (6/04/2008) ..	21 A.A.R 1246 (9/05/2015)	R18–8–261 (A).
Revisions to DSW Rule (219)	73 FR 64668–64788 (10/30/2008).	26 A.A.R 2949 (11/03/2020).	R18–8–260 (C). R18–8–261 (A). R18–8–270 (A)
Academic Laboratories Generator Standards (220)	73 FR 72912 (12/01/2008)	21 A.A.R 1246 (9/05/2015)	R18–8–262 (A).
OECD Requirements; Export Shipments of Spent Lead-Acid Batteries (222).	75 FR 1236–1262 (1/8/2010).	21 A.A.R 1246 (9/05/2015)	R 18–8–262 (A). R18–8–263 (A). R18–8–264 (A). R18–8–264 (A). R18–8–266 (A).
Technical Corrections/Clarifications (223)	75 FR 12989–13009 (3/18/2010), 75 FR 31716–31717 (6/4/2010).	21 A.A.R 1246 (9/05/2015)	R18–8–260 (C). R18–8–262 (A). R18–8–262 (A). R18–8–263(A). R18–8–264 (A). R18–8–265 (A). R18–8–266 (A). R18–8–268. R18–8–270 (A).
Removal of Saccharin and its Salts from the list of HW (225).	75 FR 78918–78926 (12/17/2010).	21 A.A.R 1246 (9/05/2015)	R18–8–261(A). R18–8–268.
Academic Laboratories Generator Standards Technical Corrections (226).	75 FR 79304 (12/20/2010)	21 A.A.R 1246 (9/05/2015)	R18–8–261 (A). R18–8–262 (A).
Revisions to Treatment Standards of Carbamate Wastes (227).	76 FR 34147–34157 (6/13/2011).	21 A.A.R 1246 (9/05/2015)	R18–8–268.
Technical Correction/Clarification (228)	77 FR 22229–22232 (4/13/2012).	21 A.A.R 1246 (9/05/2015)	R18–8–261 (A). R18–8–266 (A).
Conditional Exclusions for Solvent Contaminated Wipes (229).	78 FR 46448–46485 (7/31/2013).	21 A.A.R 1246 (9/05/2015)	R18–8–260 (A). R18–8–261 (A).
Conditional Exclusion for Carbon Dioxide (CO_2) Streams in Geologic Sequestration Activities (230).	79 FR 350 (1/03/2014)	25 A.A.R 435 (2/05/2019)	R18–8–260 (C). R18–8–261 (A).
Hazardous Waste Electronic Manifest System (231)	79 FR 7518–7563 (2/7/2014).	25 A.A.R 435 (2/05/2019)	R18–8–260 (C). R18–8–262 (A). R18–8–263 (A). R18–8–264 (A). R18–8–265 (A).
Revisions to Export Provisions of the Cathode Ray Tube (CRT) Rule (232).	79 FR 36220–36231 (6/26/2014).	25 A.A.R 435 (2/05/2019)	R18–8–260 (C). R18–8–261 (A).
Revision to DSW Rule—Non-waste determinations and variances (233).	80 FR 1694–1814 (1/13/2015); 83 FR 24664–24671 (5/30/2018).	26 A.A.R 2949 (11/03/2020).	R18–8–260 (C). R18–8–261 (A). R18–8–270 (A).
Vacatur of Comparable Fuels and Gasification (234)	80 FR 18777–18780 (4/8/2015).	25 A.A.R 435 (2/05/2019)	R18–8–260 (C). R18–8–261 (A).
Disposal of Coal Combustion Residuals from Electric Utilities (235).	80 FR 21302 (4/17/2015) ..	25 A.A.R 435 (2/05/2019)	R18–8–261 (A).
Imports and Exports of Hazardous Waste (236)	81 FR 85696–85729 (11/28/2016), 82 FR 41015–41016 (8/29/2017).	25 A.A.R 435 (2/05/2019)	R18–8–260 (C). R18–8–261 (A). R18–8–262 (A). R18–8–263 (A). R18–8–264 (A). R18–8–265 (A). R18–8–266 (A). R18–8–273.

Description of Federal requirement and checklist number	**Federal Register** volume, page and date	Arizona Administrative Register (A.A.R) and effective date	Arizona Administrative Code (A.A.C) implementing rule sections
Generator Improvements Rule (237)	81 FR 85732–85829 (11/28/2016).	25 A.A.R 435 (2/05/2019)	R18–8–260 (C). R18–8–265 (A). R18–8–268. R18–8–270(A). R18–8–273.
Confidentiality Determinations for Hazardous Waste Export and Import Documents (238).	82 FR 60894–60901 (12/26/2017).	25 A.A.R 435 (2/05/2019)	R18–8–260 (C). R18–8–261 (A). R18–8–262 (A).
Hazardous Waste Electronic Manifest System User Fee (239).	83 FR 420–462 (1/3/2018)	25 A.A.R 435 (2/05/2019)	R18–8–260 (C). R18–8–262 (A). R18–8–263 (A). R18–8–264 (A). R18–8–265 (A).
Safe Management of Recalled Airbags (240)	83 FR 61552 (11/30/2018)	26 A.A.R 2949 (11/03/2020).	R18–8–260 (C). R18–8–261 (A). R18–8–262 (A).
Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine (241).	84 FR 5816 (2/22/2019)	26 A.A.R 2949 (11/03/2020).	R18–8–260 (C). R18–8–261(A). R18–8–262 (A). R18–8–263 (A). R18–8–264 (A). R18–8–265 (A). R18–8–266(A). R18–8–286. R18–8–270 (A). R18–8–273.
Universal Waste Regulations: Addition of Aerosol Cans (242).	84 FR 67202 (12/09/2019)	26 A.A.R 2949 (11/03/2020).	R18–8–260 (C). R18–8–261 (A). R18–8–264 (A). R18–8–265 (A). R18–8–268. R18–8–270 (A). R18–8–273.

2. There are several Federal rules that have been vacated, withdrawn, or superseded. As a result, authorization of these rules may be moot. However, for purposes of completeness, these rule checklists are included above with an explanation as to the rule's status in Arizona. Arizona never adopted the RCRA comparable fuel exclusion contained in Checklist 221: Expansion of RCRA Comparable Fuel Exclusion (73 FR 77954, December 19, 2008) therefore adopting Checklist 224: Withdrawal of the Emission Comparable Fuel Exclusion (75 FR 33712, June 15, 2010) would be unnecessary. Arizona's authorized program continues to be equivalent to and no less stringent than the Federal program without having to make any conforming changes pursuant to the checklists.

F. How does this action affect Indian country (18 U.S.C. 1151) in Arizona?

Arizona is not authorized to carry out its hazardous waste program in Indian country within the state. Therefore, this action has no effect on Indian country. EPA retains jurisdiction over Indian country and will continue to implement and administer the federal RCRA program on these lands.

G. Statutory and Executive Order Reviews

The Office of Management and Budget (OMB) has exempted this action (RCRA state authorization) from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). Therefore, this action is not subject to review by OMB. This action proposes corrections to the authorization of state requirements for the purpose of Section 3006 of RCRA and imposes no additional requirements beyond those imposed by state law. Accordingly, this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action proposes correction of the authorization of pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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). As explained above, this proposed action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This proposed action will not have substantial direct effects 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely corrects the **Federal Register** notice in which EPA authorized state requirements as part of the state RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This proposed action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant, and it does not concern environmental health or safety risks that EPA has reason to believe may disproportionally affect children. This proposed correction is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 May 22, 2001), because it is not a significant

regulatory action under Executive Order 12866.

Under RCRA Section 3006(b), the EPA grants a state's application for authorization, as long as the state meets the criteria required by RCRA. It would thus be inconsistent with applicable law for the EPA, when it reviews a state authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 do not apply. See 15 U.S.C. 272 note, sec. 12(d)(3), Public Law 104–113, 110 Stat. 783 (Mar. 7, 1996) (exempting compliance with the NTTAA's requirement to use VCS if compliance is ''inconsistent with applicable law''). As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed correction to its rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the proposed correction to the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order. This proposed correction to the rule authorizing Arizona's revision to DSW Rule Non-waste determinations and variances does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. Because this proposed correction to the Arizona's Revision to DSW Rule—Non-waste determinations and variances authorization rule authorizes pre-existing state rules which are at least equivalent to, and no less stringent than existing federal requirements, and impose no additional requirements beyond those imposed by state law, and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898. The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the final rule correction in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This proposed correction is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Authority: This action is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: November 26, 2023.

Martha Guzman Aceves,

Regional Administrator, Region IX.

[FR Doc. 2023–27156 Filed 12–11–23; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 88, No. 237

Tuesday, December 12, 2023

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–CN–23–0071]

Notice of Request for an Extension and Revision to a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Agricultural Marketing Service's (AMS) intention to request approval from the Office of Management and Budget, for an extension and revision to the currently approved information collection entitled Cotton Classing, Testing, and Standards.

DATES: Comments on this notice must be received by February 12, 2024 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit comments concerning this notice by using the electronic process available at *https://www.regulations.gov.* All comments should reference the document number and the date and the page number of this issue of the **Federal Register**. Written comments may be submitted via mail or hand delivery to Cotton Research and Promotion, Cotton and Tobacco Program, AMS, USDA, 100 Riverside Parkway, Suite 101, Fredericksburg, Virginia 22406. All comments received will be posted without change, including any personal information provided, at *https://www.regulations.gov* and will be included in the record and made available to the public. Please do not include personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. Comments may be submitted anonymously. All comments received will be made available for public inspection at Cotton and Tobacco Program, AMS, USDA, 100 Riverside Parkway, Suite 101, Fredericksburg, Virginia 22406. A copy of this document may be found at: *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Shethir M. Riva, Director, Research and Promotion, Cotton and Tobacco Program, AMS, USDA, 100 Riverside Parkway, Suite 101, Fredericksburg, Virginia 22406, Telephone (540) 361–2726, Facsimile (540) 361–1199, or Email at *CottonRP@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Cotton Classing, Testing, and Standards.

OMB Number: 0581–0008.

Expiration Date of Approval: March 31, 2024.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: Information solicited is used by the USDA to administer and supervise activities associated with the classification or grading of cotton, cotton linters, and cottonseed based on official USDA standards. The information requires personal data, such as name, type of business, address, and description of classification services requested. These programs are conducted under the United States Cotton Standards Act (7 U.S.C. 51b), the Cotton Statistics and Estimates Act of 1927 (7 U.S.C. 473c), and the Agricultural Marketing Act of 1946 (7 U.S.C. 1622h) and regulations appear at 7 CFR part 28.

The information collection requirements in this request are essential to carry out the intent of the Acts and to provide the cotton industry the type of information they need to make sound business decisions. The information collected is the minimum required. Information is requested from growers, cooperatives, merchants, manufacturers, and other government agencies.

The information collected is used only by authorized employees of the USDA, AMS. The cotton industry is the primary user of the compiled information and AMS and other government agencies are secondary users.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.08 hours per response.

Respondents: Cotton merchants, warehouses, and gins.

Estimated Number of Respondents: 1,858.

Estimated Number of Responses per Respondent: 2.05.

Estimated Number of Responses: 1,758.

Estimated Total Annual Burden on Respondents: 133.72.

Comments are invited on: (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) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Shethir M. Riva, Director, Research and Promotion, Cotton and Tobacco Program, AMS, USDA, 100 Riverside Parkway, Suite 101, Fredericksburg, Virginia 22406, Telephone (540) 361–2726, Facsimile (540) 361–1199, or Email at *CottonRP@usda.gov.*

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Melissa Bailey,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2023–27193 Filed 12–11–23; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–SC–23–0049]

Request for Extension of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this document announces the Agricultural Marketing Service's (AMS) intention to request an extension to currently approved forms used by importers of commodities that are exempt from section 8e import regulations.

DATES: Comments on this notice are due by February 12, 2024 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments concerning this notice. Comments must be sent to the Docket Clerk, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or the internet: *https://www.regulations.gov.* Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours or can be viewed at: *https://www.regulations.gov.* All comments submitted in response to this notice will be included in the record and will be made available to the public. Please be advised that the identity of individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Thomas Nalepa, Marketing Specialist, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Room 1406–S, Washington, DC 20250–0237; Telephone: (202) 720–8085; Fax: (202) 720–8938; or Email: *Thomas.Nalepa@usda.gov.*

Small businesses may request information on this notice by contacting Richard Lower, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Room 1406–S, Washington, DC 20250–0237; Telephone (202) 720–8085; Fax: (202) 720–8938; or Email: *Richard.Lower@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Specified Commodities Imported into the United States Exempt from Import Requirements.

OMB Number: 0581–0167.

Expiration Date of Approval: February 29, 2024.

Type of Request: Extension of a currently approved information collection.

Abstract: Section 8e (7 U.S.C. 608e) of the Agricultural Marketing Agreement Act of 1937 as amended (7 U.S.C. 601–674; Act) requires that whenever the Secretary of Agriculture issues grade, size, quality, or maturity regulations under domestic marketing orders, the same or comparable regulations must be issued for imported commodities. Import regulations apply only during those periods when domestic marketing order regulations are in effect.

The following commodities are subject to section 8e import regulations: avocados; grapefruit; kiwifruit; olives (other than Spanish-style); oranges; table grapes; Irish potatoes; onions; tomatoes; dates (other than dates for processing); raisins; pistachios; and hazelnuts (filberts). Imports of these commodities are exempt from section 8e requirements if they are imported for such outlets as processing, charity, animal feed, seed, and distribution to relief agencies.

Safeguard procedures in the form of importer and receiver reporting requirements are used to ensure that the imported commodities are, in fact, shipped to authorized, exempt outlets. Reports required under the safeguard procedure are similar to the reports currently required by most domestic marketing orders and are required of importers and receivers under the following import regulations: (1) fruits: import regulations (7 CFR part 944.350); (2) vegetables: import regulations (7 CFR part 980.501); and (3) specialty crops: import regulations (7 CFR part 999.500).

Under these regulations, importers intending to import commodities for exempt purposes must complete the form SC–6, ''Importer's Exempt Commodity Form''. SC–6 is submitted to AMS through the Compliance Enforcement Management System (CEMS). CEMS is an internet-based application which allows importers and receivers of fruit, vegetable, and specialty crops to complete the form online. If an importer correctly inputs their shipment data into CEMS, they will receive and be able to print a certificate that accompanies the shipment. Data elements are simultaneously transmitted to the receiver and to AMS, where they are reviewed for compliance purposes by Market Development Division (MDD) staff. The receiver retains a copy for recordkeeping purposes.

In rare instances a paper form SC–6 may be used. The hardcopy form has four parts, which are distributed as follows: copy one is presented to the U.S. Customs and Border Protection, Department of Homeland Security; copy two is filed with MDD within two days of the commodity entering the United States; copy three accompanies the exempt shipment to its intended destination, where the receiver certifies its receipt and that it will be used for exempt purposes, and files that copy with MDD within two days of receipt; and copy four is retained by the importer.

In addition to renewing the SC–6 form, this information collection package does the same for the SC–7 form, ''Civil Penalty Stipulation Agreement.'' The Act authorizes the Secretary of Agriculture to assess a civil penalty of not more than $3,391 per violation against any person who violates the Section 8e regulations. Investigators complete the form identifying the violation committed by the produce importer. Produce importers sign the SC–7 form to agree to pay the sum in full settlement. There is no burden associated as only a signature is required.

The information collected through this package is used primarily by authorized representatives of the USDA, including AMS Specialty Crops Program regional and headquarters staff.

Estimate of Burden: The public reporting burden for this collection of information is estimated to average 5 minutes per response.

Respondents: Importers and receivers of exempt commodities. Estimates of respondents and responses are calculated by taking the raw annual data collected from inspections on Section 8e crops entering the U.S. market and finding the three-year averages. These numbers represent an approximation of the annual burden given the frequent changes in number of respondents and responses from year to year.

Estimated Number of Respondents: 73.

Estimated Number of Total Annual Responses: 6,892.

Estimated Number of Responses per Respondent: 337.

Estimated Total Annual Burden on Respondents: 581 hours.

Comments are invited on: (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) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate

automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments to this document will be summarized and included in the request for OMB approval and will become a matter of public record.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2023–27240 Filed 12–11–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Forest Service

Black Hills National Forest Advisory Board

AGENCY: Forest Service, Agriculture USDA.

ACTION: Notice of meeting.

SUMMARY: The Black Hills National Forest Advisory Board will hold a public meeting according to the details shown below. The Board is authorized under the Forest and Rangeland Renewable Resources Planning Act of 1974, the National Forest Management Act of 1976, the Federal Lands Recreation Enhancement Act, and operates in compliance with the Federal Advisory Committee Act (FACA). The purpose of the Board is to provide advice and recommendations on a broad range of forest issues such as forest plan revisions or amendments, forest health including fire, insect and disease, travel management, forest monitoring and evaluation, recreation fees, and site-specific projects having forest-wide implications.

DATES: An in-person meeting will be held on January 17, 2024, 1 p.m.–4:30 p.m. Mountain standard time (MST).

Written and Oral Comments: Anyone wishing to provide in-person oral comments must pre-register by 11:59 p.m. MST on January 12, 2024. Written public comments will be accepted up to 11:59 p.m. MST on January 12, 2024. Comments submitted after this date will be provided to the Forest Service, but the Board may not have adequate time to consider those comments prior to the meeting.

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

ADDRESSES: This meeting will be held in person, at the U.S. Forest Service, Mystic Ranger District Office, 8221 Mount Rushmore Road, Rapid City, South Dakota 57702. Board information and meeting details can be found at the following website: *https://www.fs.usda.gov/main/blackhills/workingtogether/advisorycommittees* or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written Comments: Written comments must be sent by email to *scott.j.jacobson@usda.gov or* via mail (*i.e.,* postmarked) to Scott Jacobson, 8221 Mount Rushmore Road, Rapid City, South Dakota 57702. The Forest Service strongly prefers comments be submitted electronically.

Oral Comments: Persons or organizations wishing to make oral comments must pre-register by 11:59 p.m. MST, January 12, 2024, and speakers can only register for one speaking slot. Oral comments must be sent by email to *scott.j.jacobson@usda.gov* or via mail (*i.e.,* postmarked) to Scott Jacobson, 8221 Mount Rushmore Road, Rapid City, South Dakota 57702.

FOR FURTHER INFORMATION CONTACT: Ivan Green, Designated Federal Officer (DFO), by phone at 605–673–9201 or email at *ivan.green@usda.gov,* or Scott Jacobson, Committee Coordinator, at 605–440–1409 or email at *scott.j.jacobson@usda.gov.*

SUPPLEMENTARY INFORMATION: The meeting agenda will include:

1. Off Highway Vehicle (OHV) Permit Fees; and
2. Forest Plan Revision update.

The agenda will include time for individuals to make oral statements of three minutes or less. Individuals wishing to make an oral statement should make a request in writing at least three days prior to the meeting date to be scheduled on the agenda. Written comments may be submitted to the Forest Service up to 7 days after the meeting date listed under **DATES**.

Please contact the person listed under **FOR FURTHER INFORMATION CONTACT**, by or before the deadline, for all questions related to the meeting. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received upon request.

Meeting Accommodations: The meeting location is compliant with the Americans with Disabilities Act, and the USDA provides reasonable accommodation to individuals with disabilities where appropriate. If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpretation, assistive listening devices, or other reasonable accommodation to the person listed under the **FOR FURTHER INFORMATION CONTACT** section or contact USDA's TARGET Center at (202) 720–2600 (voice and TTY) or USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

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

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

Dated: December 7, 2023.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2023–27212 Filed 12–11–23; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Census Bureau

[Docket Number: 231128–0279; X–RIN 0607–XC072]

Geographically Updated Population Certification Program

AGENCY: Census Bureau, Department of Commerce.

ACTION: Notice of program reinstatement.

SUMMARY: Effective January 1, 2024, the Census Bureau will reinstate the Geographically Updated Population Certification Program (GUPCP). At that time, the Census Bureau will resume processing applications for certified decennial census population and housing counts associated with updated government boundaries. This service was suspended on January 1, 2019, to

accommodate the taking of the 2020 Census (see the **Federal Register**, October 19, 2018). The resumption of this service provides the requesting government a new certification of 2020 Census population and housing counts based on boundary updates that became legally effective after the 2020 Census. Government boundaries effective on or before January 1, 2020 were used for 2020 Census population and housing tabulation. While GUPCP was originally scheduled for reinstatement in 2022, resource demands following the 2020 Census have delayed its relaunch until 2024. Resumption of the program continues a fee-based service that the Census Bureau has provided since the 1970s. Additional program details, including the schedule of fees and application instructions, will be available online at: *https://www.census.gov/programs-surveys/gupcp.html.*

DATES: The GUPCP will be reinstated on January 1, 2024.

FOR FURTHER INFORMATION CONTACT: Lindsay Spell, Population Division, U.S. Census Bureau, by email at *lindsay.spell@census.gov* or telephone at 301–763–1652.

SUPPLEMENTARY INFORMATION: Following the 1970 decennial census and after every subsequent decennial census, the Census Bureau provided the opportunity for tribal, state, and local governments to obtain certified population and housing counts for areas where the boundaries have changed from those used to tabulate the results of the immediately preceding decennial census. These changes occur due to newly incorporated governments, the merger of two or more existing governments, the addition or annexation of land by a government, or other circumstances. The certification process is available to governments established by law for the purpose of implementing specified general-purpose or special-purpose government functions. Most governments have legally established boundaries and names and have officials (usually elected) who have the power to carry out legally prescribed functions, provide services for residents, and raise revenues. These are commonly referred to as general-purpose governments and typically include federally recognized American Indian reservations and off-reservation trust land, counties and county equivalents, boroughs, cities, towns, villages, and townships. Special-purpose governments, such as school districts, typically are limited to one function.

The Census Bureau is issuing this notice to reinstate the GUPCP as a centralized system for certifying decennial population and housing counts. This service will be a permanent process, but one that will be suspended in advance of future decennial censuses. Typically, the Census Bureau will suspend this service and direct its resources to the decennial census for approximately five years. This includes the two years preceding the decennial census, the decennial census year, and the two years following it. The Census Bureau will issue notices in the **Federal Register** announcing when it suspends and, in turn, resumes the service.

The Census Bureau first began to make updated decennial census count determinations to reflect geographic boundary changes in 1972 in response to the requests of local governments to establish eligibility for participation in the General Revenue Sharing Program, authorized under Public Law 92–512. At that time, the Census Bureau established a fee-based service enabling governments with annexations to obtain updated decennial census population counts that reflected the population living in the annexed areas. The Census Bureau also received funding from the U.S. Department of the Treasury to make those determinations for larger annexations that met prescribed criteria, and for new incorporations. The General Revenue Sharing Program ended on September 30, 1986, but the certification program continued into 1988 with support from the Census Bureau. The program was suspended to accommodate the taking of the 1990 decennial census and resumed in 1992. The Census Bureau supported the program through fiscal year 1995 for cities with large annexations and through fiscal year 1996 for newly incorporated places. The program was continued as a fee-based service until June 1, 1998, at which time it was suspended for the 2000 decennial census (see the **Federal Register**, 63 FR 27706, May 20, 1998). In 2002, the program resumed and has since been referred to as the Geographically Updated Population Certification Program or GUPCP (see the **Federal Register**, 67 FR 72095, December 4, 2002). GUPCP was suspended again in 2008 to accommodate the taking of the 2010 Census (see the **Federal Register**, 72 FR 46602, August 21, 2007), as well as in 2019 to accommodate the taking of the 2020 Census (see the **Federal Register**, 83 FR 53029, October 19, 2018).

Although there is no legal requirement that the Census Bureau provide this service, there is a demand from governments for 2020 Census population and housing counts to be certified to reflect boundary updates or the formation of new governments dated after January 1, 2020, the legal effective date for boundaries used in tabulating the 2020 Census. Title 13, United States Code (U.S.C.), section 8 allows the Census Bureau to conduct this program by providing certain statistical materials upon payment of costs for the service. The Census Bureau is the sole provider of this service, which is based on processing 2020 Census enumeration records protected by the confidentiality restrictions at 13 U.S.C. 8 and 9.

A geographically updated population certification from the Census Bureau confirms that an official population and housing count is an accurate re-tabulation of the 2020 Census population and housing as configured for the updated government boundaries. A population certification may be needed for many reasons. For example, general-purpose governments may be required by state law to produce a Census Bureau population and housing certification for funds disbursement from their respective state, or federally sponsored programs may require or honor a Census Bureau population and housing certification for program eligibility. Special-purpose governments may also need official certification of census population and housing counts for other purposes.

The Census Bureau is reinstating the fee-based service that will use current geographic and demographic programs to support customer requests. The final fee structure will reflect variations in the resources needed to meet customer requirements for certifications of standard governmental units and will be posted online at: *https://www.census.gov/programs-surveys/gupcp.html.* There are two types of fees, based upon whether the population certificate is generated through an annually scheduled geographic update process or is expedited in order to meet customer needs. Governments requesting certification must complete Form BC–1869(EF), ''Geographically Updated Population Certification Program (GUPCP) Request''. This form will be available online at: *https://www.census.gov/programs-surveys/gupcp.html.* Tribal, state, and local governments should submit requests for certifications on Form BC–1869(EF) by email to the Census Bureau at *pop.lgemp@census.gov.* Communication requesting the service without Form BC–1869(EF) will be accepted only if it contains the information necessary to complete the form.

Paperwork Reduction Act: Notwithstanding any other provision of law, no person is required to respond to,

nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), unless that collection of information displays a current Office of Management and Budget control number. This notice does not represent a collection of information and is not subject to the PRA's requirements. The form reference in the notice, Form BC–1869(EF), will collect only information necessary to process a certification request. As such, it is not subject to the PRA's requirements.

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

Dated: December 7, 2023.

Shannon Wink,

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

[FR Doc. 2023–27207 Filed 12–11–23; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Reporting Process for Complaint of Employment Discrimination Used by Permanent Employees and Applicants for Employment at DOC and Complaint of Employment Discrimination for the Decennial Census

AGENCY: Office of Civil Rights, Office of the Secretary, Department of Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before February 12, 2024.

ADDRESSES: Interested persons are invited to submit comments by email to *predpath@doc.gov* or *PRAcomments@doc.gov*. Please reference OMB Control Number 0694–0015 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Paul Redpath, Office of Civil Rights, Chief, Program Implementation Division, phone (202) 482–2627 or by email at *predpath@doc.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Equal Employment Opportunity Federal Commission (EEOC) regulations at 29 CFR 1614.106 require that a Federal employee or applicant for Federal employment alleging discrimination based on race, color, sex, national origin, religion, age, disability, genetic information, or reprisal for protected activity must submit a signed statement that is sufficiently precise to identify the actions or practices that form the bases of the complaint. The individual completing the form is asked to identify the bureau at which the alleged discrimination took place, and whether the individual worked at that bureau at the time of the alleged discrimination. The individual completing the form is also asked to describe the alleged discriminatory action(s) as clearly as possible and include the date(s) and to articulate the basis or bases of the complaint (race, color, sex, etc.). Further, the individual completing the form is asked to identify the remedy(ies) sought for the alleged discrimination. Although complainants are not required to use the proposed form to file their complaints, the Office of Civil Rights strongly encourages its use to ensure efficient case processing and trend analyses of complaint activity.

II. Method of Collection

A paper form, signed by the complainant or his or her designated representative, must be submitted by mail or delivery service, email, in person, or by facsimile transmission.

III. Data

OMB Control Number: 0694–0015.

Form Number(s): CD–498, CD–498A.

Type of Review: Regular. Extension of a currently approved information collection.

Affected Public: Households and individuals.

Estimated Number of Respondents: 200.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 100.

Estimated Total Annual Cost to Public: $193.

Respondent's Obligation: Voluntary.

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. 2023–27242 Filed 12–11–23; 8:45 am]

BILLING CODE 3510–BP–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–856]

Certain Aluminum Foil From Brazil: Preliminary Results of Antidumping Duty Administrative Review; 2021–2022

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that producers or exporters of certain aluminum foil (aluminum foil) from Brazil subject to this review made sales of subject merchandise at less than normal value (NV) during the

period of review (POR) May 4, 2021, through October 31, 2022. We invite interested parties to comment on these preliminary results.

DATES: Applicable December 12, 2023.

FOR FURTHER INFORMATION CONTACT: George McMahon, 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.

SUPPLEMENTARY INFORMATION:

Background

On January 3, 2023, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), Commerce initiated an administrative review of the antidumping duty order on aluminum foil from Brazil.[1] This review covers two producers and/or exporters of the subject merchandise.

On January 13, 2023, we identified CBA Itapissuma Ltda. and Companhia Brasileira de Alumínio (collectively, CBA [2]) as the mandatory respondent in this review.[3] On July 14, 2023, we extended the deadline for the preliminary results by 120 days.[4] The deadline for the preliminary results of this administrative review is now November 30, 2023.

For a complete description of the events that followed the initiation of this administrative review, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx/.*

Scope of the Order [5]

The scope of the *Order* covers aluminum foil. Aluminum foil is currently classifiable under subheadings 7607.11.3000, 7607.11.6090, 7607.11.9030, 7607.11.9060, 7607.11.9090, and 7607.19.6000 of the Harmonized Tariff Schedule of the United States (HTSUS). Further, merchandise that falls within the scope of these orders may also be entered into the United States under HTSUS subheadings 7606.11.3060, 7606.11.6000, 7606.12.3045, 7606.12.3055, 7606.12.3091, 7606.12.3096, 7606.12.6000, 7606.91.3095, 7606.91.6095, 7606.92.3035, and 7606.92.6095. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these orders is dispositive. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). Export price is calculated in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying these preliminary results, *see* the Preliminary Decision Memorandum. A list of topics included in the Preliminary Decision Memorandum is included as the appendix to this notice.

Preliminary Results of Review

We preliminarily determine that the following weighted-average dumping margin exists for the period May 4, 2021, through October 31, 2022:

Exporter or producer	Weighted-average dumping margin (percent)
Companhia Brasileira de Alumínio/CBA Itapissuma [6]	9.05

Disclosure and Public Comment

We intend to disclose the calculations performed to parties within five days after public announcement of the preliminary results.[7] Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs to Commerce following publication of these preliminary results of review. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[8] The deadlines for case briefs and rebuttal briefs will be announced at a later date. Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[9] As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this review, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[10] Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the executive summary of each issue.

Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[11] Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 88 FR 50 (January 3, 2023).

[2] Commerce determined in the less-than-fair-value investigation that Companhia Brasileira de Alumínio and CBA Itapissuma are affiliated within the meaning of sections 771(33)(E) and (G) of the Act, and should be treated as a single entity, in accordance with 19 CFR 351.401(f). Based on the information reported by Companhia Brasileira de Alumínio and CBA Itapissuma in this review, Commerce continues to find that Companhia Brasileira de Alumínio and CBA Itapissuma are affiliated and continues to treat these companies as a single entity. *See Certain Aluminum Foil from Brazil: Final Affirmative Determination of Sales at Less Than Fair Value,* 86 FR 52886 (September 23, 2021), and accompanying Issues and Decision Memorandum; *see also* Memorandum, ''Certain Aluminum Foil from Brazil: Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review; 2021–2022,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[3] *See* Commerce's Letter, ''Section A–E Initial Questionnaire,'' dated January 13, 2023; *see also* Memorandum, ''Release of U.S. Customs and Border Protection (CBP) Data,'' dated January 11, 2023.

[4] *See* Memorandum, ''Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,'' dated July 14, 2023.

[5] *See Certain Aluminum Foil from the Republic of Armenia, Brazil, the Sultanate of Oman, the Russian Federation, and the Republic of Turkey: Antidumping Duty Orders,* 86 FR 62790 (November 12, 2021).

[6] Consistent with the less than fair value investigation, Commerce preliminarily determines that Companhia Brasileira de Alumínio and CBA Itapissuma are affiliated, within the meaning of 771(33)(E) and (G) of the Act, and should be treated as a single entity, in accordance with 19 CFR 351.401(f). *See* Preliminary Decision Memorandum.

[7] *See* 19 CFR 351.224(b).

[8] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023).

[9] *See* 19 CFR 351.309(c)(2) and (d)(2).

[10] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[11] *See Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings; Final Rule,* 88 FR 67069 (September 29, 2023).

ACCESS. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. An electronically-filed hearing request must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5 p.m. Eastern Time within 30 days after the date of publication of this notice.

Assessment Rate

Upon issuance of the final results, Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.[12] 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**. The final results of this administrative review shall be the basis for the assessment of antidumping duties on entries of merchandise under review and for future deposits of estimated duties, where applicable. 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).

Pursuant to 19 CFR 351.212(b)(1), where an examined respondent's weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.5 percent), we will calculate an importer-specific *ad valorem* duty assessment rate based on the ratio of the total amount of dumping calculated for the U.S. sales for a given importer to the total entered value of those sales. Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific assessment rate is zero or de minimis, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For entries of subject merchandise during the POR produced by CBA for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[13]

Cash Deposit Requirements

The following deposit requirements for estimated antidumping duties will be effective upon publication of the notice of final results of this review for all shipments of aluminum foil from Brazil entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2) of the Act: (1) the cash deposit rate for the companies under review will be the rate established in the final results of the review (except, if the rate is zero or *de minimis,* no cash deposit will be required); (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the producer is, the cash deposit rate will be the rate established for the most recent period for the producer of the merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be 13.93 percent,[14] the all-others rate established in the less-than-fair-value investigation. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(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 results in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.221(b)(4).

Dated: November 30, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Discussion of the Methodology
V. Currency Conversion
VI. Recommendation

[FR Doc. 2023–27321 Filed 12–11–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–073, C–570–074]

Common Alloy Aluminum Sheet From the People's Republic of China: Rescission of Circumvention Inquiry on the Antidumping Duty and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Based on a withdrawal of the circumvention inquiry request, the U.S. Department of Commerce (Commerce) is rescinding this circumvention inquiry that was initiated to determine whether imports of common alloy aluminum sheet (CAAS) produced in the Republic of Korea (Korea) by Gwangyang Aluminum Industries Co., Ltd. (Gwangyang Aluminum), completed or assembled using non-subject flat rolled aluminum having a thickness greater than 6.3 millimeters (mm) produced by Henan Mingtai Aluminum Industry Co., Ltd. (Henan Mingtai) or Zhengzhou Mingtai Industry Co., Ltd. (Zhengzhou Mingtai) in the People's Republic of China (China), is circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on CAAS from China.

DATES: Applicable December 12, 2023.

FOR FURTHER INFORMATION CONTACT: Frank Schmitt, 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) 482–4880.

[12] *See* 19 CFR 351.212(b)(1).

[13] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[14] *See Order,* 86 FR 62791.

SUPPLEMENTARY INFORMATION:

Background

On February 6 and 8, 2019, respectively, Commerce published the CVD and AD orders on imports of CAAS from China.[1] On May 23, 2023, the Aluminum Association Common Alloy Aluminum Sheet Trade Enforcement Working Group and its individual members (the domestic industry)[2] filed a circumvention inquiry request alleging that imports of CAAS produced in Korea by Gwangyang Aluminum, assembled or completed using flat rolled aluminum having a thickness greater than 6.3 mm (aluminum plate) produced by Henan Mingtai[3] in China, is circumventing the *Orders*.[4] On July 13, 2023, Commerce initiated a circumvention inquiry regarding the above-referenced merchandise.[5] On November 2, 2023, the domestic industry withdrew its circumvention inquiry request.[6]

Scope of the Orders

The merchandise covered by the *Orders* is common alloy aluminum sheet from China. For a complete description of the scope of the *Orders, see* the Initiation Checklist.[7]

Merchandise Subject to the Circumvention Inquiry

The circumvention inquiry covers CAAS produced by Gwangyang Aluminum in Korea, assembled or completed using flat rolled aluminum having a thickness greater than 6.3 mm produced by Mingtai in China, and exported to the United States.

Rescission of Circumvention Inquiry

As noted above, the domestic industry has withdrawn its request for a circumvention inquiry on CAAS produced by Gwangyang Aluminum in Korea, assembled or completed using flat rolled aluminum having a thickness greater than 6.3 mm produced by Mingtai in China, and exported to the United States.[8] Therefore, in accordance 19 CFR 351.226(f)(6)(i), Commerce finds that it is appropriate to rescind this circumvention inquiry in its entirety.

Suspension of Liquidation

Pursuant to 19 CFR 351.226(l)(1), Commerce notified U.S. Customs and Border Protection (CBP) of the initiation of this circumvention inquiry and directed CBP to continue the suspension of liquidation of entries of products subject to the circumvention inquiry that were already subject to the suspension of liquidation under the *Orders* and to apply the cash deposit rate that would be applicable if the products were determined to be covered by the scope of the *Orders*.[9] Upon publication of this rescission notice, Commerce will inform CBP that Commerce has rescinded this inquiry and that CBP should continue to suspend entries of common alloy aluminum sheet from China that are subject to the *Orders* at the applicable rate(s) in effect on the date of entry until specific liquidation instructions are issued.

Administrative Protective Order

This notice serves as a final 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 the APO materials or conversion to judicial protective order is hereby requested. Failure to comply with regulations and terms of an APO is a violation, which is subject to sanction.

Notification to Interested Parties

This notice is issued and published in accordance with section 781 of the Tariff Act of 1930, as amended, and 19 CFR 351.226(f)(6).

Dated: December 5, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2023–27177 Filed 12–11–23; 8:45 am]

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[1] *See Common Alloy Aluminum Sheet from the People's Republic of China: Countervailing Duty Order,* 84 FR 2157 (February 6, 2019); and *Common Alloy Aluminum Sheet from the People's Republic of China: Antidumping Duty Order,* 84 FR 2813 (February 8, 2019) (collectively, *Orders*).

[2] The individual members of the Aluminum Association Common Alloy Aluminum Sheet Trade Enforcement Working Group are: Arconic Corporation; Commonwealth Rolled Products, Inc.; Constellium Rolled Products Ravenswood, LLC; Jupiter Aluminum Corporation; JW Aluminum Company; and Novelis Corporation.

[3] Commerce previously determined that Henan Mingtai and Zhengzhou Mingtai are a single entity. *See Antidumping Duty Investigation of Common Alloy Aluminum Sheet from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value, Preliminary Affirmative Determination of Critical Circumstances, and Postponement of Final Determination,* 83 FR 29088 (June 2022, 2018), and accompanying Preliminary Decision Memorandum at 19, unchanged at *Antidumping Duty Investigation of Common Alloy Aluminum Sheet from the People's Republic of China: Affirmative Final Determination of Sales at Less-Than-Fair Value,* 83 FR 57421 (November 15, 2018). Accordingly, for the purposes of this circumvention inquiry, we considered aluminum plate produced by Henan Mingtai and Zhengzhou Mingtai (collectively, Mingtai) rather than aluminum plate produced by only Henan Mingtai.

[4] *See* Domestic Industry's Letter, ''Domestic Industry Request for Circumvention Ruling Pursuant to Section 781(b) of the Tariff Act of 1930, As Amended and Scope Ruling Pursuant to 19 CFR 351.225,'' dated May 23, 2023.

[5] *See Common Alloy Aluminum Sheet from the People's Republic of China: Initiation of Circumvention Inquiry of the Antidumping and Countervailing Duty Orders; Aluminum Sheet Further Processed in the Republic of Korea,* 88 FR 44779 (July 13, 2023) (*Initiation Notice*).

[6] *See* Domestic Industry's Letter, ''Domestic Industry's Withdrawal of Request for Circumvention Ruling Pursuant to Section 781(b) of the Tariff Act of 1930,'' dated November 2, 2023 (Withdrawal Request).

[7] *See Initiation Notice* and accompanying Checklist, ''Circumvention Initiation Checklist,'' dated July 7, 2023, at Attachment 1.

[8] *See* Withdrawal Request.

[9] *See* CBP Message 3201402, ''Initiation of Circumvention Inquiry—Antidumping and Countervailing Duty Orders on Common Alloy Aluminum Sheet from the People's Republic of China (A–570–073, C–570–074),'' dated July 20, 2023.

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–094]

Refillable Stainless Steel Kegs From the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review and Rescission of Administrative Review, in Part; 2021

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that subsidies are being provided to producers and exporters of refillable stainless steel kegs (kegs) from the People's Republic of China (China) during the period of review (POR) from January 1, 2021, through December 31, 2021. In addition, we are rescinding the review with respect to 40 companies. Interested parties are invited to comment on these preliminary results.

DATES: Applicable December 12, 2023.

FOR FURTHER INFORMATION CONTACT: Theodore Pearson or Jacob Keller, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2631 or (202) 482–4849, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 16, 2019, Commerce published in the **Federal Register** the countervailing duty order on kegs from

China.[1] On December 1, 2022, we published a notice of opportunity to request an administrative review of the *Order*.[2] On February 2, 2023, based on timely requests for an administrative review, Commerce published the notice of initiation of an administrative review of the *Order*.[3] On April 7, 2023, Commerce selected Guangzhou Ulix Industrial & Trading Co., Ltd. (Ulix) and Ningbo Master International Trade Co., Ltd. (Ningbo Master) as the mandatory respondents in this administrative review.[4] On August 14, 2023, Commerce extended the deadline for the preliminary results of this review until December 1, 2023.[5]

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[6] A list of topics discussed in the Preliminary Decision Memorandum is attached as the Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum is available at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Order

The products covered by the *Order* are kegs from China. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.[7]

Methodology

Commerce is conducting this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each subsidy program found countervailable, Commerce preliminarily determines that there is a subsidy, (*i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific).[8] For a full description of the methodology underlying our conclusions, including our reliance, in part, on facts otherwise available pursuant to sections 776(a) and (b) of the Act, *see* the Preliminary Decision Memorandum.

Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation. Commerce received a timely-filed withdrawal request with respect to all 42 companies from American Keg Company (the petitioner).[9] Of the 42 companies, Ningbo Master and Ulix also had other requests for review which were not withdrawn.[10] Because the withdrawal request from the petitioner was timely filed, and no other parties requested a review of the other 40 companies, in accordance with 19 CFR 351.213(d)(1), Commerce is rescinding this review of the *Order* with respect to the 40 companies. For a complete list of the companies, *see* Appendix II to this notice.

Preliminary Results of Review

We preliminarily find the following net countervailable subsidy rates exist for the period January 1, 2021, through December 31, 2021:

Producer/exporter	Subsidy rate (percent *ad valorem*)
Guangzhou Ulix Industrial & Trading Co., Ltd	2.48
Ningbo Master International Trade Co., Ltd[11]	2.41

Cash Deposit Requirements

In accordance with section 751(a)(2)(C) of the Act, Commerce also intends upon publication of the final results, to instruct U.S. Customs and Border Protection (CBP) to collect cash deposits of the estimated countervailing duties in the amounts calculated in the final results of this review for the respective companies listed above with regard to shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. If the rate calculated in the final results is zero or *de minimis,* no cash deposit will be required on shipments of the subject merchandise entered or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

For all non-reviewed firms, CBP will continue to collect cash deposits of estimated countervailing duties at the all-others rate or the most recent company-specific rate applicable to the company, as appropriate. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Assessment Rates

In accordance with section 751(a)(2)(C) of the Act and 19 CFR 351.221(b)(4)(i), we preliminarily determined subsidy rates in the amounts shown above for the producer/exporters shown above. Upon completion of the administrative review, consistent with section 751(a)(1) of the Act and 19 CFR 351.212(b)(2), Commerce shall determine, and CBP shall assess, countervailing duties on all appropriate entries covered by this review.

For the companies for which this review is rescinded with these preliminary results, we will instruct CBP to assess countervailing duties on all appropriate entries at a rate equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period January 1, 2021, through December 31, 2021, in accordance with 19 CFR 351.212(c)(l)(i). For the companies remaining in the review, we intend 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**.

[1] *See Refillable Stainless Steel Kegs from the People's Republic of China: Countervailing Duty Order,* 84 FR 68400 (December 16, 2019) (*Order*).

[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List,* 87 FR 73752 (December 1, 2022).

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 88 FR 7060 (February 2, 2023) (*Initiation Notice*) *see also Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 88 FR 15642 (March 14, 2023), correcting *Initiation Notice* to include an additional company. In total, Commerce initiated review with regard to 42 companies.

[4] *See* Memorandum, ''Respondent Selection,'' dated April 7, 2023.

[5] *See* Memorandum, ''Extension of Deadline,'' dated August 14, 2023.

[6] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of Countervailing Duty Administrative Review and Rescission of Review in Part, 2021: Refillable Stainless Steel Kegs from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[7] *See* Preliminary Decision Memorandum.

[8] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[9] *See* Petitioner's Letter, ''Withdrawal of Request for Administrative Review,'' dated May 3, 2023.

[10] *See* Ningbo Master's Letter, ''Request for Administrative Review,'' dated December 23, 2022; *see also* DBT Holdings LLC, dba Deutsche Beverage's Letter, ''Request for Administrative Review,'' dated December 28, 2022.

[11] Commerce finds the following companies to be cross-owned with Ningbo Master: Ningbo Major Draft Beer Equipment Co., Ltd.; and Zhejiang Major Technology Co., Ltd.

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).

Disclosure and Public Comment

We intend to disclose the calculations performed for these preliminary results to interested parties within five days after the date of publication of this notice.[12] Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs to Commerce no later than 30 days after the date of publication of these preliminary results of review.[13] Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[14] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[15]

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this review, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[16] Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[17]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. An electronically filed hearing request must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5 p.m. Eastern Time within 30 days after the date of publication of this notice.

Unless extended, we intend to issue the final results of this administrative review, which will include the results of our analysis of the issues raised in the case briefs, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Notification to Interested Parties

These preliminary results and notice are issued and published in accordance with sections 751(a) and 777(i)(1) of the Act, 19 CFR 351.213 and 19 CFR 351.221(b)(4).

Dated: November 30, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Partial Rescission of Administrative Review
V. Diversification of China's Economy
VI. Use of Faces Otherwise Available and Application of Adverse Inferences
VII. Subsidies Valuation Information
VIII. Interest Rate, Discount Rate, Input, and Electricity Benchmarks
IX. Analysis of Programs
X. Recommendation

Appendix II

Companies Rescinded From Review

1. Dalian Yonghseng Metal Structure Co., Ltd. d/b/a DYM Brewing Solutions
2. Equipmentimes (Dalian) E-Commerce Co., Ltd.
3. Guangzhou Jingye Machinery Co., Ltd.
4. Jinan Chenji International Trade Co., Ltd.
5. Jinan Chenji Machinery Equipment Co., Ltd.
6. Jinan HaoLu Machinery Equipment Co., Ltd.
7. Jinjiang Jiaxing Import and Export Co., Ltd.
8. NDL Keg Qingdao Inc.
9. Ningbo All In Brew Technology Co.
10. Ningbo Bestfriends Beverage Containers Industry Co., Ltd.
11. Ningbo Chance International Trade Co., Ltd
12. Ningbo Direct Import & Export Co., Ltd.
13. Ningbo Haishu Direct Import and Export Trade Co., Ltd.
14. Ningbo Haishu Xiangsheng Metal Factory
15. Ningbo Hefeng Container Manufacturer Co., Ltd.
16. Ningbo Hefeng Kitchen Utensils Manufacture Co., Ltd.
17. Ningbo HGM Food Machinery Co., Ltd.
18. Ningbo Jiangbei Bei Fu Industry and Trade Co., Ltd.
19. Ningbo Kegco International Trade Co., Ltd.
20. Ningbo Kegstorm Stainless Steel Co., Ltd.
21. Ningbo Minke Import & Export Co., Ltd.
22. Ningbo Sanfino Import & Export Co., Ltd.
23. Ningbo Shimaotong International Co., Ltd.
24. Ningbo Sunburst International Trading Co., Ltd.
25. Orient Equipment (Taizhou) Co., Ltd.
26. Penglai Jinfu Stainless Steel Products
27. Pera Industry Shanghai Co., Ltd.
28. Qingdao Henka Precision Technology Co., Ltd.
29. Qingdao Xinhe Precision Manufacturing Co., Ltd.
30. Rain Star International Trading Dalian Co., Ltd.
31. Shandong Meto Beer Equipment Co., Ltd.
32. Shandong Tiantai Beer Equipment Co., Ltd.
33. Shandong Tonsen Equipment Co., Ltd.
34. Shandong Yuesheng Beer Equipment Co., Ltd.
35. Shenzhen Wellbom Technology Co., Ltd.
36. Sino Dragon Group, Ltd.
37. Wenzhou Deli Machinery Equipment Co.
38. Wuxi Taihu Lamps and Lanterns Co., Ltd.
39. Yantai Toptech Ltd.
40. Yantai Trano New Material Co., Ltd., d/b/a Trano Keg, d/b/a SS Keg

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[12] *See* 19 CFR 351.224(b).

[13] *See* 19 CFR 351.309(c)(1)(ii).

[14] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Final Service Rule*).

[15] *See* 19 CFR 351.309(c)(2) and (d)(2).

[16] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[17] *See APO and Final Service Rule.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–878]

Certain Corrosion-Resistant Steel Products From the Republic of Korea: 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 Dongkuk Coated Metal Co., Ltd. (Dongkuk) and certain companies not selected for individual examination made sales of subject merchandise in the United States at prices below normal value (NV) during the period of review (POR) July 1, 2021, through June 30, 2022. In addition, Commerce determines that Hyundai Steel Company (Hyundai) did not make sales of subject merchandise in the United States at prices below NV during the POR.

DATES: Applicable December 12, 2023.

FOR FURTHER INFORMATION CONTACT: Jaron Moore or William Horn, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3640 or (202) 482–4868, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 27, 2023, Commerce published the *Preliminary Results* of the 2021–2022 administrative review of the antidumping duty order on certain corrosion-resistant steel products (CORE) from the Republic of Korea (Korea) and invited interested parties to comment.[1] The administrative review covers eight exporters and/or producers of the subject merchandise,[2] of which we selected Dongkuk and Hyundai as mandatory respondents.[3] For a summary of the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[4] Commerce conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order [5]

The merchandise covered by this *Order* is CORE from Korea. A full description of the scope of the *Order* is contained in the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised by parties in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is 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 a review of the record and comments received from interested parties regarding our *Preliminary Results,* we made certain changes to the preliminary weighted-average dumping margin calculations for Dongkuk,[6] as well as the preliminary weighted-average dumping margin assigned to the companies not selected for individual examination.

Rates for Companies Not Selected for Individual Examination

The statute and Commerce's regulations do not address the establishment of a rate to be applied to individual companies not selected for examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for companies which we did not individually examine in an administrative review. Section 735(c)(5)(A) of the Act establishes a preference to avoid using rates which are zero, *de minimis,* or based entirely on facts available (FA) in calculating an all-others rate. Accordingly, Commerce's practice in administrative reviews has been to average the weighted-average dumping margins for the companies selected for individual examination in the administrative review, excluding rates that are zero, *de minimis,* or based entirely on FA.[7] For these final results of review, we calculated a zero weighted-average dumping margin for Hyundai and a weighted-average dumping margin for Dongkuk that is not zero, *de minimis,* or based entirely on FA. Therefore, consistent with our practice, we have assigned the companies not selected for individual examination the weighted-average dumping margin calculated for Dongkuk.

Final Results of Review

We determine that the following weighted-average dumping margins exist for the period July 1, 2021, through June 30, 2022:

Exporter/producer	Weighted-average dumping margin (percent)
Dongkuk Coated Metal Co., Ltd [8]	0.53
Hyundai Steel Company	0.00
KG Dongbu Steel Co., Ltd	0.53
POSCO	0.53
POSCO International Corporation	0.53
POSCO STEELEON Co., Ltd	0.53
SeAH Coated Metal	0.53
SeAH Steel Corporation	0.53

Disclosure

Commerce intends to disclose to interested parties the calculations performed in connection with the final results within five days of the date of publication of the notice of final results in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rates

Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries in accordance with section 751(a)(2)(C) of the Act and 19 CFR 351.212(b). Pursuant to 19 CFR 351.212(b)(1), because Dongkuk's final margin is not zero or *de minimis* (*i.e.,* less than 0.5 percent) and Dongkuk reported the entered value of its U.S. sales, we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of those sales. Where an importer-specific assessment rate is *de minimis,* the entries by that importer will be liquidated without regard to antidumping duties. Because the final weighted-average dumping margin for Hyundai Steel Company is zero percent, we intend to instruct CBP to liquidate

[1] *See Certain Corrosion-Resistant Steel Products from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review, 2021–2022,* 88 FR 48433 (July 27, 2023) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 87 FR 54468 (September 6, 2022) (*Initiation Notice*).

[3] *See Preliminary Results,* 88 FR at 48433.

[4] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the 2021–2022 Antidumping Duty Administrative Review: Certain Corrosion-Resistant Steel Products from the Republic of Korea,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[5] *See Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea and Taiwan: Amended Final Affirmative Antidumping Determination for India and Taiwan, and Antidumping Duty Orders,* 81 FR 48390 (July 25, 2016) (*Order*).

[6] *See* Issues and Decision Memorandum at Comments 1 and 2.

[7] *See, e.g., Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part,* 73 FR 52823, 52824 (September 11, 2008), and accompanying Issues and Decision Memorandum at Comment 16.

[8] Commerce initiated this review on Dongkuk Steel Mill Co., Ltd. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 87 FR 54468 (September 6, 2022); however, Commerce recently concluded a changed circumstances review for Dongkuk Steel Mill Co., Ltd. finding that Dongkuk Coated Metal Co., Ltd. is its successor-in-interest moving forward. *See Certain Corrosion-Resistant Steel Products from the Republic of Korea: Final Results of Antidumping Duty Changed Circumstances Review* 88 FR 78723, dated November 16, 2023.

the appropriate entries without regard to antidumping duties.[9]

Consistent with Commerce's clarification of its assessment practice, for entries of subject merchandise during the POR produced by the above-referenced mandatory respondents for which they did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate those entries at the all-others rate in the original less-than-fair-value (LTFV) investigation (as amended) [10] if there is no rate for the intermediate company(ies) involved in the transaction.[11]

For the non-individually examined companies, we will instruct CBP to liquidate all applicable entries of subject merchandise during the POR at the rate listed in the table above.

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).

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[12]

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of CORE from Korea entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results as provided by section 751(a)(2) of the Act: (1) the cash deposit rate for each specific company listed above will be equal to the weighted-average dumping margin established in the final results of the review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior completed segment of the proceeding, the cash deposit rate will continue to be the company-specific rate established in the completed segment for the most recent period; (3) if the exporter is not a firm covered in this review or the original LTFV investigation, but the producer is, then the cash deposit rate will be the rate established in the completed segment for the most recent period for the producer of the merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be 8.31 percent, the all-others rate established in the LTFV investigation (as amended) in this proceeding.[13] 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 and/or countervailing duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties, and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to 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 subject to sanction.

Notification to Interested Parties

We are issuing and publishing these final results of administrative review in accordance with sections 751(a) and 777(i) of the Act, and 19 CFR 351.221(b)(5).

Dated: December 6, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Changes Since the *Preliminary Results*
V. Discussion of the Issues
Comment 1: Whether to Correct Dongkuk's General and Administrative and Interest Expense Calculations
Comment 2: Whether Commerce Correctly Matched Dongkuk's Home Market and U.S. Sales by Manufacturer
VI. Recommendation

[FR Doc. 2023–27246 Filed 12–11–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Steel Import License

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on October 6, 2023, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: International Trade Administration, Department of Commerce.

Title: Aluminum Import License.

OMB Control Number: 0625–0279.

Form Number(s): ITA–4142a (regular license); ITA–4142b (low-value license).

Type of Request: Regular submission. Extension of a currently approved information collection.

Number of Respondents: 4,000.

Average Hours per Response: Less than 10.5 minutes.

Burden Hours: 35,633 hours, including 525 burden hours for low-value licenses.

Needs and Uses: In order to monitor aluminum imports in real-time and to

[9] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification,* 77 FR 8101, 8102 (February 14, 2012).

[10] *See Order; see also Certain Corrosion-Resistant Steel Products from the Republic of Korea: Notice of Court Decision Not in Harmony with Final Determination of Investigation and Notice of Amended Final Results,* 83 FR 39054 (August 8, 2018) (*Timken and Amended Final Results*).

[11] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[12] *See* section 751(a)(2)(C) of the Act.

[13] *See Order,* as amended by *Timken and Amended Final Results.*

provide the public with real-time data, the Department of Commerce must collect and provide timely aggregated summaries about these imports. The Aluminum Import License is the tool used to collect the necessary information. The Census Bureau currently collects import data and disseminates aggregate information about aluminum imports. However, the time required to collect, process, and disseminate this information through Census can take up to 45 days after importation of the product, giving interested parties and the public far less time to respond to injurious sales.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion

Respondent's Obligation: Voluntary.

Legal Authority: 13 U.S.C. 301(a) and 302.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0625–0279.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2023–27249 Filed 12–11–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD560]

Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Trawl Rationalization Program; 2024 Cost Recovery Fee Notice

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

ACTION: Notice. 2024 cost recovery fee percentages and average mothership cooperative program pricing.

SUMMARY: This action provides participants in the Pacific Coast Groundfish Trawl Rationalization Program with the 2024 cost recovery fee percentages and the average mothership (MS) price per pound to be used in the catcher/processor (C/P) Co-operative (Co-op) program to calculate the fee amount for the upcoming calendar year. For the 2024 calendar year, NMFS announces the following fee percentages by sector specific program: 3 percent for the Shorebased Individual Fishing Quota (IFQ) Program; 0.1 percent for the C/P Co-op Program; and 1.8 percent for the MS Co-op Program. For 2024, the MS pricing to be used as a proxy by the C/P Co-op Program is $0.11 per pound for Pacific whiting.

DATES: This action is effective January 1, 2024.

FOR FURTHER INFORMATION CONTACT: Christopher Biegel, (206) 247–8252, *christopher.biegel@noaa.gov.*

SUPPLEMENTARY INFORMATION: Section 304(d)(2)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) authorizes and requires NMFS to collect fees to recover the costs directly related to the management, data collection and analysis, and enforcement connected to and in support of a limited access privilege program (LAPP) (16 U.S.C. 1854(d)(2)), also called ''cost recovery.'' Cost recovery fees recover the actual costs directly related to the management, data collection and analysis, and enforcement of the programs (MSA section 303A(e), 16 U.S.C. 1853a(e)). Section 304(d)(2)(B) of the MSA mandates that cost recovery fees not exceed 3 percent of the annual ex-vessel value of fish harvested by a program subject to a cost recovery fee, and that the fee be collected either at the time of landing, filing of a landing report, or sale of such fish during a fishing season or in the last quarter of the calendar year in which the fish is harvested.

The Pacific Coast Groundfish Trawl Rationalization Program is a LAPP, implemented in 2011, and consists of three sector-specific programs: the Shorebased IFQ Program, the MS Co-op Program, and the C/P Co-op Program. In accordance with the MSA, and based on a recommended structure and methodology developed in coordination with the Pacific Fishery Management Council (Council), NMFS began collecting mandatory fees of up to three percent of the ex-vessel value of groundfish from each program (Shorebased IFQ Program, MS Co-op Program, and C/P Co-op Program) in 2014. NMFS collects the fees to recover the incremental costs of management, data collection and analysis, and enforcement of the Groundfish Trawl Rationalization Program. Additional background can be found in the cost recovery proposed rule (78 FR 7371, February 1, 2013) and final rule (78 FR 75268, December 11, 2013). The details of cost recovery for the Groundfish Trawl Rationalization Program are in regulation at 50 CFR 660.115 (Trawl fishery—cost recovery program), § 660.140 (Shorebased IFQ Program), § 660.150 (MS Co-op Program), and § 660.160 (C/P Co-op Program).

By December 31 of each year, NMFS announces the next year's fee percentages and the applicable MS pricing for the C/P Co-op Program. To calculate the fee percentages, NMFS used the formula specified in regulation at § 660.115(b)(1), where the fee percentage by sector equals the lower of 3 percent or direct program costs (DPC) for that sector divided by total ex-vessel value (V) for that sector multiplied by 100.

''DPC,'' as defined in the regulations at § 660.115(b)(1)(i), are the actual incremental costs for the previous fiscal year directly related to the management, data collection and analysis, and enforcement of each program (Shorebased IFQ Program, MS Co-op Program, and C/P Co-op Program). Actual incremental costs means those net costs that would not have been incurred but for the implementation of the Groundfish Trawl Rationalization Program, including both increased costs for new requirements of the program and reduced costs resulting from any program efficiencies or adjustments to costs from previous years.

''V,'' as specified at § 660.115(b)(1)(ii), is the total ex-vessel value, as defined at § 660.111, for each sector from the previous calendar year. To determine the ex-vessel value for the Shorebased IFQ Program, NMFS used the ex-vessel value for calendar year 2022 as reported in the Pacific Fisheries Information Network from Shorebased IFQ electronic fish tickets as this was the most recent complete set of data. To determine the ex-vessel value for the MS Co-op Program and the C/P Co-op Program, NMFS used the retained catch estimates (weight) for each sector as reported in the North Pacific Observer Program database multiplied by the average price of Pacific whiting as reported by participants in the MS Co-op program for 2022.

The fee calculations for the 2024 fee percentages are described below.

IFQ Program:

- 3.5 percent = ($1,927,301.37/$54,406,343.00) × 100.

C/P Co-op Program:

• 0.1 percent = ($29,364.40/$33,367,530.60) × 100.

MS Co-op Program:

• 1.8 percent = ($280,187.19/$15,425,857.68) × 100.

However, the calculated fee percentage cannot exceed the statutory limit of 3 percent. The IFQ Program fee calculation (3.5 percent) exceeds this limit, therefore, the 2024 fee percentage for the IFQ Program is 3 percent. The final 2024 fee percentages are 3.0 percent for the IFQ Program, 0.1 percent for the C/P Co-op Program, and 1.8 percent for the MS Co-op Program.

MS Average Pricing

MS pricing is the average price per pound that the C/P Co-op Program will use to determine the fee amount due for that sector. The C/P sector value is calculated by multiplying the retained catch estimates (weight) of Pacific whiting harvested by the vessel registered to a C/P-endorsed limited entry trawl permit by the MS pricing. NMFS has calculated the 2024 MS pricing to be used as a proxy by the CP Co-op Program as: $0.11 per pound for Pacific whiting.

Cost recovery fees are submitted to NMFS by fish buyers via *Pay.gov* (*https://www.pay.gov*). Fees are only accepted in *Pay.gov* by credit/debit card or bank transfers. Cash or checks cannot be accepted. Fish buyers registered with *Pay.gov* can login in the upper right-hand corner of the screen. Fish buyers not registered with *Pay.gov* can go to the cost recovery forms directly from the website below. The links to the *Pay.gov* forms for each program (IFQ, MS, or C/P) are listed below:

• IFQ: *https://www.pay.gov/public/form/start/58062865;*

• MS: *https://www.pay.gov/public/form/start/58378422;* and

• C/P: *https://www.pay.gov/public/form/start/58102817.*

As stated in the preamble to the cost recovery proposed and final rules, in the spring of each year, NMFS will release an annual report documenting the details and data used for the fee percentage calculations. Annual reports are available at: *https://www.fisheries.noaa.gov/west-coast/sustainable-fisheries/west-coast-groundfish-trawl-catch-share-program#cost-recovery.*

Authority: 16 U.S.C. 1801 *et seq.;* 16 U.S.C.773 *et seq.;* 16 U.S.C. 7001 *et seq.*

Dated: December 6, 2023.

Everett Wayne Baxter,

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

[FR Doc. 2023–27188 Filed 12–11–23; 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 for Review and Approval; Comment Request; Atlantic Highly Migratory Species Scientific Research, Exempted Fishing, and Exempted Activity Submissions

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 collection to the Office of Management and Budget.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before February 12, 2024.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at *Adrienne.thomas@noaa.gov.* Please reference OMB Control Number 0648–0471 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Cliff Hutt, Fisheries Management Specialist, National Marine Fisheries Service (NMFS), Highly Migratory Species (HMS) Management Division, 1315 East-West Highway, SSMC3, Silver Spring, MD 20910; 301–427–8503; or *cliff.hutt@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Atlantic highly migratory species (HMS) fisheries are managed under the 2006 Consolidated HMS Fishery Management Plan (FMP) and its amendments, pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) and consistent with the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*). The implementing regulations for HMS fisheries are found at 50 CFR part 635.

Issuance of exempted fishing permits (EFPs), scientific research permits (SRPs), display permits, letters of acknowledgment (LOAs), and shark research fishery permits is necessary for the collection of HMS for public display and scientific research that requires exemption from regulations (*e.g.,* seasons, prohibited species, authorized gear, minimum sizes) that otherwise may prohibit such collection. Display permits are issued for the collection of HMS for the purpose of public display, and a limited number of shark research fishery permits are issued for the collection of fishery-dependent data for future stock assessments and cooperative research with commercial fishermen to meet the shark research objectives of the Agency.

Regulations at 50 CFR 600.745 and 50 CFR 635.32 govern scientific research activity, exempted fishing, and exempted educational activities with respect to HMS. Since the Magnuson-Stevens Act does not include scientific research within the definition of ''fishing,'' scientific research is exempt from this statute, and NMFS does not issue EFPs for bona fide research activities (*e.g.,* research conducted from a research vessel and not a commercial or recreational fishing vessel) involving species that are only regulated under the Magnuson-Stevens Act (*e.g.,* most species of sharks) and not under ATCA. NMFS requests copies of scientific research plans for these activities and indicates concurrence by issuing a LOA to researchers to indicate that the proposed activity meets the definition of scientific research and is therefore exempt from regulation.

Scientific research is not exempt from regulation under ATCA. NMFS issues SRPs for collection of species managed under this statute (*i.e.,* tunas, swordfish, billfish, and some shark species), which authorize researchers to collect HMS from bona fide research vessels (*e.g.,* NMFS or university research vessel). NMFS will issue an EFP when research/collection involving such species occurs

from commercial or recreational fishing platforms.

To regulate these fishing activities, NMFS needs information to determine the justification for granting an EFP, LOA, SRP, display, or shark research fishery permit. The application requirements are detailed at 50 CFR 600.745(b)(2). Interim, annual, and no-catch/fishing reports must also be submitted to the HMS Management Division within NMFS (excluding LOAs). The authority for NMFS requiring this information is found at 50 CFR 635.32.

NMFS has updated the burden estimates based on participation in the HMS Management Division's exempted fishing program from 2021 through 2023 and the Shark Research Fishery from 2021 through 2023.

II. Method of Collection

Respondents can submit the required information via email via electronic forms (PDF or spreadsheet). NMFS is currently developing an online electronic reporting portal for the submission of required EFP reports, which will be available in 2024.

III. Data

OMB Control Number: 0648–0471.

Form Number(s): None.

Type of Review: Regular submission (extension of a currently approved collection).

Estimated Number of Respondents: 58.

Estimated Time per Response: 2 hours for a scientific research plan; 40 minutes for an application for an EFP, display permit, SRP, LOA, or shark research fishery permit; 1 hour for an interim report; 40 minutes for an annual fishing report; 15 minutes for an application for an amendment; 5 minutes for notification of departure phone calls to NMFS Enforcement; 10 minutes for calls to request and observer; and 2 minutes for ''no-catch'' reports.

Estimated Total Annual Burden Hours: 224.

Estimated Total Annual Cost to Public: None.

Respondent's Obligation: Voluntary for applications and Mandatory for reporting and notifications.

Legal Authority: Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), and the Atlantic Tunas Convention Act of 1975. (16 U.S.C. 971 *et seq.*)

IV. Request for Comments

We are soliciting public comments to permit the Department/NMFS to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department/NMFS, 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. 2023–27248 Filed 12–11–23; 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; Pacific Islands Region Permit Family of Forms

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 collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before February 12, 2024.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at *NOAA.PRA@noaa.gov*. Please reference OMB Control Number 0648–0490 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Walter Ikehara, Fishery Information Specialist, National Marine Fisheries Service, Pacific Islands Region, 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818, (808) 725–5175, *walter.ikehara@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for an extension of a currently approved information collection.

The *Magnuson-Stevens Fishery Conservation and Management Act* established the Western Pacific Fishery Management Council (Council), to develop fishery ecosystem plans (FEP) for fisheries in the United States (U.S.) exclusive economic zone (EEZ) and high seas of the Pacific Islands region. These plans, if approved by the Secretary of Commerce, are implemented in Federal regulations by the National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) and enforced by NOAA's Office of Law Enforcement (OLE) and the U.S. Coast Guard (USCG), in cooperation with state and territorial agencies. FEPs regulate fishing to prevent overfishing and to ensure the long-term productivity and social and economic benefit of the resources.

Regulations at 50 CFR 665, Subpart F, require that a vessel used to fish with longline gear for western Pacific pelagic management unit species (PMUS), land or transship longline caught PMUS, or receive longline caught PMUS from a longline vessel, within the Exclusive Economic Zone (EEZ) or management subarea around U.S. islands in the central and western Pacific must be registered to a valid Federal fishing permit. The regulations also require that a vessel used to fish with squid jig gear for pelagic squid species listed in the western Pacific PMUS within the EEZ or management subareas around U.S.

islands in the central and western Pacific, or fish with troll and handline gear for PMUS in allowed locations within the EEZ around each of the Pacific Remote Island Areas (PRIA), must be registered to a valid Federal fishing permit.

Regulations at 50 CFR parts 665, Subparts D and E, require that the owner of a vessel used to fish for, land, or transship bottomfish management unit species (BMUS) using a large vessel (50 ft or longer) in the Guam management subarea, fish commercially for BMUS in the Commonwealth of the Northern Mariana Islands management subarea, or fish for BMUS in allowed locations within the EEZ around each of the PRIA, must register it to a valid Federal fishing permit.

Regulations at 50 CFR parts 665, Subparts B, C, D, and E, require that the owner of a vessel used to fish for, land, or transship crustacean management unit species (CMUS) in the EEZs or management subareas around American Samoa, Hawaii, Guam, Northern Mariana Islands, or in allowed locations within the EEZ around each of the PRIA, must register it to a valid Federal fishing permit. The regulations also require that a vessel used to fish for precious corals within the EEZ or management subarea around U.S. islands in the central and western Pacific must be registered to a valid Federal fishing permit for a specific precious coral permit area.

This collection of information is needed for permit issuance, to identify actual or potential participants in the fishery, determine qualifications for permits, and to help measure the impacts of management controls on the participants in the fishery. The permit program is also an effective tool in the enforcement of fishery regulations and facilitates communication between NMFS and fishermen.

II. Method of Collection

Respondents may submit applications and required documents via secure email, or via online application systems where implemented.

III. Data

OMB Control Number: 0648–0490.

Form Number(s): None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Business or other for-profit organizations; individuals or households; not-for-profit institutions; state, local, or tribal government; Federal government.

Estimated Number of Respondents: 276.

Estimated Time per Response: Hawaii longline limited entry permit: renew via secure email—30 min; renew online—15 min; transfer—1 hr; apply for closed area exemption or permit appeal—2 hr. American Samoa longline limited entry permit: renew or apply for additional permit via secure email—45 min; transfer—1 hour 15 min; permit appeal—2 hr. All other permits: apply via secure email—30 min; apply online—15 min.

Estimated Total Annual Burden Hours: 131.5.

Estimated Total Annual Cost to Public: $12,650.

Respondent's Obligation: Mandatory.

Legal Authority: 50 CFR 665.

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. 2023–27245 Filed 12–11–23; 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; For-Hire Telephone Survey

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on 09/05/2023 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic & Atmospheric Administration (NOAA), Commerce.

Title: For-Hire Telephone Survey.

OMB Control Number: 0648–0709.

Form Number(s): None.

Type of Request: Regular submission (extension of a current information collection).

Number of Respondents: 21,930.

Average Hours per Response: 3 minutes, 30 seconds.

Total Annual Burden Hours: 1,279.

Needs and Uses: This request is for extension of a currently approved information collection. The For-Hire Survey (FHS) is conducted for NMFS to estimate fishing effort on for-hire vessels (*i.e.,* charter boats and head boats) in coastal states from Maine to Mississippi. These data are required to carry out provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), as amended, regarding conservation and management of fishery resources.

The FHS collects fishing effort information from for-hire vessel representatives by telephone interview. For-hire vessels are randomly selected for the FHS from a comprehensive sample frame developed and maintained by NMFS. A sample of 10% of the vessels on the FHS frame are selected for reporting each week. Each interview collects information about the vessel, the number and type of trips the vessel made during the reporting week, the number of anglers on each trip, and other trip-level information.

For-hire fishing effort is estimated in numbers of angler-trips per sub-region, state, two-month wave, vessel type, and fishing area (inshore, nearshore, offshore). To get a total for-hire effort estimate, weekly FHS effort estimates are summed to produce wave estimates that are adjusted to account for frame coverage and reporting error. The FHS estimates are then combined with for-hire catch-rate estimates derived from complementary Marine Recreational Information Program (MRIP) surveys, to estimate total, state-level fishing catch. These estimates are used in the development, implementation, and monitoring of fishery management programs by the NMFS, regional fishery management councils, interstate marine fisheries commissions, and state fishery agencies.

Affected Public: Individuals or households; business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

Legal Authority: Magnuson-Stevens Fishery Conservation and Management Act.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0648–0709.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2023–27247 Filed 12–11–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0160]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Study of District and School Uses of Federal Education Funds

AGENCY: Institute of Education Sciences (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before January 11, 2024.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Claire Allen-Pratt, 202–987–1090.

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: Study of District and School Uses of Federal Education Funds.

OMB Control Number: 1850–0951.

Type of Review: An extension without change of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 250.

Total Estimated Number of Annual Burden Hours: 1,630.

Abstract: Federal funds account for less than 10 percent of K–12 education spending nationally but can play an important role, particularly in communities that are lower-income or have lower-performing schools. Although each federal education program has unique goals and provisions, they often allow funds to be used for similar purposes and services or overlapping populations. Congress provided state and local education agencies greater flexibility in their use of federal funds through the 2015 reauthorization of the Elementary and Secondary Education Act (ESEA). As the COVID–19 pandemic began to disrupt schools in 2020, Congress also created new programs to provide funding and flexibilities for states and districts to respond to the emergency. Because policymakers remain interested in how federal dollars are spent, this study will examine the distribution and use of pandemic relief funds and explore the possibility of examining those issues for five ''core'' federal education programs that represent the vast share of the Department's K–12 grant making: Part A of Titles I, II, III, and IV of ESEA, and Title I, Part B of the Individuals with Disabilities Education Act (IDEA).

Dated: December 7, 2023.

Juliana Pearson,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2023–27209 Filed 12–11–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an in-person/virtual hybrid meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, January 17, 2024; 4:00 p.m.–7:00 p.m. PST.

The opportunity for public comment is at 4:10 p.m. PST.

This time is subject to change; please contact the Nevada Site Specific Advisory Board (NSSAB) Administrator (below) for confirmation of time prior to the meeting.

ADDRESSES: This meeting will be open to the public in-person at the Valley

Electric Association's Valley Conference Center (address below) or virtually via Microsoft Teams. To attend virtually, please contact Barbara Ulmer, NSSAB Administrator, by email *nssab@emcbc.doe.gov* or phone (702) 523–0894, no later than 4:00 p.m. PST on Tuesday, January 16, 2024.

Valley Electric Association, Valley Conference Center, 800 E Highway 372, Pahrump, NV 89048

FOR FURTHER INFORMATION CONTACT AND/OR DIRECTIONS CONTACT: Barbara Ulmer, NSSAB Administrator, by phone: (702) 523–0894 or email: *nssab@emcbc.doe.gov* or visit the Board's internet homepage at *www.nnss.gov/NSSAB/.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to provide advice and recommendations concerning the following EM site-specific issues: clean-up activities and environmental restoration; waste and nuclear materials management and disposition; excess facilities; future land use and long-term stewardship. The Board may also be asked to provide advice and recommendations on any EM program components.

Tentative Agenda:

1. Public Comment Period
2. Update from Deputy Designated Federal Officer
3. Update from National Nuclear Security Administration/Nevada Field Office
4. Updates from NSSAB Liaisons
5. Presentations

Public Participation: The in-person/online virtual hybrid meeting is open to the public either in-person at the Valley Conference Center or via Microsoft Teams. To sign-up for public comment, please contact the NSSAB Administrator (above) no later than 4:00 p.m. PST on Tuesday, January 16, 2024. In addition to participation in the live public comment session identified above, written statements may be filed with the Board either before or within seven days after the meeting by sending them to the NSSAB Administrator at the aforementioned email address. Written public comment received prior to the meeting will be read into the record. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments can do so in 2-minute segments for the 15 minutes allotted for public comments.

Minutes: Minutes will be available by writing or calling Barbara Ulmer, NSSAB Administrator, U.S. Department of Energy, EM Nevada Program, 100 North City Parkway, Suite 1750, Las Vegas, NV 89106; Phone: (702) 523–0894. Minutes will also be available at the following website: *https://www.nnss.gov/nssab/nssab-meetings/.*

Signed in Washington, DC, on December 7, 2023.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2023–27201 Filed 12–11–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RD23–6–000]

Commission Information Collection Activities (FERC–725A(1D) and FERC–725Z); Comment Request; Revision

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collections and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collections, FERC–725A(1D) (Mandatory Reliability Standards for the Bulk-Power System TOP–003–6.1) and FERC–725Z (Mandatory Reliability Standards for the Bulk-Power System IRO–010–5 Reliability Standards).

DATES: Comments on the collections of information are due February 12, 2024.

ADDRESSES: You may submit copies of your comments (identified by Docket No. RD23–6–000) by one of the following methods:

- *Electronic Filing:* Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format. Electronic filing through *http://www.ferc.gov,* is preferred.
- *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, 12225 Wilkins Avenue, Rockville, MD 20852.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov.* Please ensure each comment refers to the appropriate collection. 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 *http://www.ferc.gov.*

FOR FURTHER INFORMATION CONTACT: Jean Sonneman may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–6362.

SUPPLEMENTARY INFORMATION:

Titles: FERC–725Z, Mandatory Reliability Standards: IRO Reliability Standards, and FERC–725A(1D), Mandatory Reliability Standards for the Bulk-Power System Reliability Standards (TOP–003–6.1).

Action: Proposed Changes to Collections.

OMB Control Nos.: 1902–0276 (FERC–725Z); 1902–0324 (FERC–725A(1D)).

Type of Request: Modification of the FERC–725Z and FERC–725A(1D) information collection requirements.

Abstract: On 9/21/2023, the North American Electric Reliability Corporation (NERC) filed a petition on the proposed Modifications to Reliability Standards IRO–010 and TOP–003 to improve the approaches used for data and information specification and exchange by, among other things: (i) clarifying that specifications include both data and information; (ii) requiring the identification of the applicable entity that is required to respond to the request for the specification; (iii) including a data conflict resolution provision within the data specification requirement; (iv) clarifying that specifications should include protocols to address periodicity, performance criterion, and update and correction mechanisms; and (v) consolidating the format and security protocols within the data specification requirements.

The proposed Modifications to FERC–725Z for IRO–010–5 and FERC–725A(1D) for TOP–003–6.1, address recommendations arising from the SER Phase 2 Team by clarifying, consolidating, and improving approaches for data and information specification and exchange. The proposed revisions are intended to advance the reliability of the Bulk-Power System (''BPS'') by ensuring that Registered Entities with operational responsibilities are able to request and receive the data and information necessary to support Operational

Planning Analysis, Real-time Assessments, Real-time monitoring, and Balancing Authority analysis functions in an optimal manner.

The proposed modifications would advance the reliability of the BPS by facilitating improved coordination of information and data sharing, thus allowing the entities responsible for the reliable operation of the BPS to request and receive data and information necessary to support Operational Planning Analysis, Real-time Assessments, Real-time monitoring, and Balancing Authority analysis functions in an optimal manner.

The changes being implemented primarily affect the reliability coordinator in IRO–010–5 and the transmission operator and balancing authority in TOP–003–6.1 with other entities have much lower burden. Additionally, the burden is expected to only be needed for years 1 and 2 as the burden is only focused on procedures for sharing data and moving details from one requirement to another within the same standard. After year two with procedures fully in place there are no expectations for additional burden to continue as documents will be in place. The existing burden will remain the same until updated further for these reliability standards.

These Standards, FERC–725A(1D) (Temporary placeholder for FERC–725A) for TOP–003–6.1, FERC–725Z for IRO–010–5, which are all currently approved information collections.

Type of Respondents: NERC-registered entities including generator owner, generator operator, reliability coordinator, balancing authorities, distribution provider, transmission owner, and transmission operators.[1]

Estimate of Annual Burden:[2] The Commission estimates the annual public reporting burden and cost for the information collections as:[3]

Reliability Standard IRO–010–5 (Reliability Coordinator Data Specification and Collection)

Reliability Standard TOP–003–6.1 (Transmission Operator and Balancing Authority Data and Information Specification and Collection)

TOP–003–6.1—Transmission Operator and Balancing Authority Data and Information Specification and Collection for Years 1 and 2

Type of entity	Number of respondents[4] (1)	Annual number of responses per respondent (2)	Annual number of responses (1) * (2) = (3)	Average burden hours & cost per response (4)[5]	Total annual burden hours & cost (3) * (4) = (5)
FERC–725A(1D), OMB Control No. 1902–0324					
TOP	166	1	166	80 hrs.; $5,429.60	13,280 hrs.; $901,313.60.
BA	98	1	98	80 hrs.; $5,429.60	7,840 hrs.; $532,100.80.
TO	323	1	323	8 hrs.; $542.96	2,584 hrs.; $175,376.08.
GOP	1,002	1	1,002	8 hrs.; $542.96	8,016 hrs.; $544,045.92.
GO	1,164	1	1,164	8 hrs.; $542.96	9,312 hrs.; $632,005.44.
DP	301	1	301	8 hrs.; $542.96	2,408 hrs.; $163,430.96.
FERC–725A(1D) for TOP–003–6.1 Total Years 1 & 2.					43,440 hrs.; $2,948,272.80.
FERC–725A(1D) for TOP–003–6.1 Total Year 3 and beyond.					No Change to existing burden.

IRO–010–5—Reliability Coordinator Data and Information Specification and Collection for Years 1 and 2

Type of entity	Number of respondents[6] (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden & cost per response (4)[7]	Total annual burden hours & total annual cost (3) * (4) = (5)
FERC–725Z, OMB Control No. 1902–0276					
RC	12	1	12	80 hrs.; $5,429.60	960 hrs.; $65,155.20.
BA	98	1	98	8 hrs.; $542.96	784 hrs.; $53,210.08.
GO	1,164	1	1,164	8 hrs.; $542.96	9,312 hrs.; $632,005.44.
GOP	1,002	1	1,002	8 hrs.; $542.96	8,016 hrs.; $544,045.92.
TOP	166	1	166	8 hrs.; $542.96	1,328 hrs.; $90,131.36.
TO	323	1	323	8 hrs.; $542.96	2,584 hrs.; $175,376.08.
DP	301	1	301	8 hrs.; $542.96	2,408 hrs.; $163,430.96.
FERC–725Z for IRO–010–5 Total Years 1 & 2.					25,392 hrs.; $1,723,355.04.

[1] In subsequent portions of this notice, the following acronyms will be used: DP = Distribution Provider, BA = Balancing Authority, RC = Reliability Coordinator, TOP = Transmission Owner, GO = Generator Owner, GOP = Generator Operator, TOP = Transmission Operator.

[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, reference 5 Code of Federal Regulations 1320.3.

[3] *https://www.nerc.com/FilingsOrders/us/NERC%20Filings%20to%20FERC%20DL/Petition%20for%20Approval%20of%20IRO-010%20and%20TOP-003_final.pdf.*

[4] Values represent unique U.S. entities as based on the NERC compliance registry information as of September 22, 2023.

[5] The estimated hourly cost (salary plus benefits) is a combination based on the Bureau of Labor Statistics (BLS), as of 2023, for 75% of the average of an Electrical Engineer (17–2071) $77.29/hr., 77.29 × .75 = 57.9675 ($57.97-rounded) ($57.97/hour) and 25% of an Information and Record Clerk (43–4199) $39.58/hr, $39.58 × .25% = 9.895 ($9.90 rounded) ($9.90/hour), for a total ($57.97 + $9.90 = $67.87/hour).

IRO–010–5—RELIABILITY COORDINATOR DATA AND INFORMATION SPECIFICATION AND COLLECTION FOR YEARS 1 AND 2—Continued

Type of entity	Number of respondents [6] (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden & cost per response (4) [7]	Total annual burden hours & total annual cost (3) * (4) = (5)
FERC–725Z for IRO–010–5 Total Year 3 and beyond.	.....	.....	.....	.....	No Change to existing burden.

The total annual estimated burden and cost for the FERC–725A(1D) information collection is 43,440 hours and $2,948,272.80. FERC 725Z is 25,392 hours and $1,723,355.04 respectively.

Comments: Comments are invited on: (1) whether the collections of information are 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 burdens and costs of the collections of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collections; and (4) ways to minimize the burden of the collections of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: December 6, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–27221 Filed 12–11–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF24–1–000]

Western Area Power Administration; Notice of Filing

Take notice that on November 22, 2023, Western Area Power Administration submitted tariff filing: Rates for Western Area Power Administration—Rate Order No. WAPA–206 to be effective 1/1/2024.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

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.*

Comment Date: 5:00 p.m. Eastern Time on December 22, 2023.

Dated: December 5, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–27231 Filed 12–11–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10661–051]

Indiana Michigan Power Company; 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 subsequent license to continue to operate and maintain the Constantine Hydroelectric Project (project). The project is located on the St. Joseph River, in the Village of Constantine, in St. Joseph County, Michigan. 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

[6] Values represent unique U.S. entities as based on the NERC compliance registry information as of September 22, 2023.

[7] The estimated hourly cost (salary plus benefits) is a combination based on the Bureau of Labor Statistics (BLS), as of 2022, for 75% of the average of an Electrical Engineer (17–2071) $77.29/hr., 77.29 × .75 = 57.9675 ($57.97-rounded) ($57.97/hour) and 25% of an Information and Record Clerk (43–4199) $39.58/hr, $39.58 × .25% = 9.895 ($9.90 rounded) ($9.90/hour), for a total ($57.97 + $9.90 = $67.87/hour).

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 30 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–10661–051.

For further information, contact Colleen Corballis at 202–502–8598 or *Colleen.Corballis@ferc.gov.*

Dated: December 5, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–27228 Filed 12–11–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP24–1–000]

Cameron Interstate Pipeline, LLC; Notice of Schedule for the Preparation of an Environmental Assessment for the Holbrook Expansion Project

On October 4, 2023, Cameron Interstate Pipeline, LLC filed an application in Docket No. CP24–1–000 requesting a Certificate of Public Convenience and Necessity pursuant to section 7(c) of the Natural Gas Act to construct and operate certain natural gas facilities. The proposed project is known as the Holbrook Expansion Project (Project), and it would provide about 1.1 billion cubic feet of additional natural gas transportation capacity per day to Cameron LNG, LLC's liquefied natural gas (LNG) export facility in Cameron Parish, Louisiana.

On October 19, 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	April 19, 2024
90-day Federal Authorization Decision Deadline[2]	July 18, 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

Cameron Interstate Pipeline, LLC proposes to construct and operate two new natural gas compressor units, and associated aboveground facilities, ancillary and auxiliary equipment at its existing Holbrook Compressor Station in Calcasieu Parish, Louisiana.

The Holbrook Expansion Project would consist of the following facilities:

- one new 42,000-horsepower natural gas turbine compressor unit (in a new compressor building);
- one new 5,350-horsepower natural gas reciprocating compressor unit (in an existing compressor building);
- 1,100-foot-long, 36-inch-diameter discharge header pipeline;
- one new warehouse; and
- associated ancillary and auxiliary equipment.

Cameron Interstate Pipeline, LLC would also use a temporary laydown yard, workspace, and existing access road.

Background

On November 13, 2023, the Commission issued a *Notice of Scoping Period Requesting Comments on Environmental Issues for the Proposed Holbrook Expansion Project* (Notice of Scoping). The Notice of Scoping 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. All substantive comments received in response to the Notice of Scoping will be addressed in 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.

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

[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.

interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

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'' (*i.e.,* CP24–1), 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: December 5, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–27233 Filed 12–11–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6550–005]

JBS Rentals, LLC, 5J's LLC; Notice of Transfer of Exemption

1. On October 10, 2023, 5J's LLC filed a notification of the transfer for the 30-kilowatt Biber Spellenberg Hydroelectric Project No. 6550 from JBS Rentals, LLC to 5J's LLC. The exemption from licensing was originally issued on February 14, 1983.[1] The project is located on Bidden Creek, Trinity County, California. The transfer of an exemption does not require Commission approval.

2. 5J's LLC is now the exemptee of the Biber Spellenberg Hydroelectric Project No. 6550. All correspondence must be forwarded to Cynthia Anderson, Owner, and Manager, 5J's LLC, P.O. Box 127, Willow Creek, CA 95573, Phone: 916–220–6712, email: *Dynaglide96@gmail.com.*

Dated: December 6, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–27220 Filed 12–11–23; 8:45 am]

BILLING CODE 6717–01–P

[1] *Frank M. Biber and Steven Spellenberg,* 22 FERC ¶ 62,182 (1983). Subsequently, on August 15, 2017, the project was transferred to JBS Rentals, LLC.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3240–040, Project No. 6689–018, Project No. 3342–025]

Briar Hydro Associates, LLC; Notice Soliciting Scoping Comments

Take notice that the following hydroelectric applications have been filed with the Commission and is available for public inspection.

a. *Type of Applications:* New License.

b. *Project Nos.:* P–3240–040, P–6689–018, and P–3342–025.

c. *Date Filed:* November 30, 2022.

d. *Applicant:* Briar Hydro Associates, LLC.

e. *Names of Projects:* Rolfe Canal Hydroelectric Project, Penacook Upper Falls Hydroelectric Project, and Penacook Lower Falls Hydroelectric Project (the projects).

f. *Locations:* The Rolfe Canal and the Penacook Upper Falls Projects are on the Contoocook River in the City of Concord in Merrimack County, New Hampshire. The Penacook Lower Falls Project is located on the on the Contoocook River in the Town of Boscawen in Merrimack County, New Hampshire.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Andrew J. Locke, Essex Hydro Associates, LLC, 55 Union Street, Boston, MA 02108; (617) 357–0032; email—*alocke@essexhydro.com.*

i. *FERC Contact:* Jeanne Edwards at (202) 502–6181; or email at *jeanne.edwards@ferc.gov.*

j. *Deadline for filing scoping comments:* January 5, 2024.

The Commission strongly encourages electronic filing. Please file scoping comments using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.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 at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. All filings must clearly identify the following on the first page: Rolfe Canal Project No. 3240–040, and/or Penacook Upper Falls Project No. 6689–018, and/or the Penacook Lower Falls Project No. 3342–025.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. The applications are not ready for environmental analysis at this time.

l. *Project Descriptions:*

The Rolfe Canal Project diverts water at the York Dam into the Rolfe Canal and consists of the following existing facilities: (1) York impoundment with a surface area of 50-acres, at an elevation of 342.5 feet National Geodetic Vertical Datum 1929 (NGVD29); (2) a 300-foot-long, 10-foot-high diversion dam (York Dam); (3) a 50-foot-wide concrete gated intake structure; (4) a 7,000-foot-long, 75-foot-wide, and 9-foot-deep power canal; (5) an additional impoundment with a surface area of 3-acres, at an elevation of 342.5 feet NGVD29, and a negligible storage capacity, created by a 130-foot-long, 17-foot-high granite block intake dam at the end of the power canal; (6) a 950-foot-long underground penstock; (7) a 32-foot-wide by 90-foot-long, concrete powerhouse containing one Kaplan turbine-generating unit with a capacity of 4.285 megawatts; (8) a 1,200-foot-long tailrace; (9) transmission facilities consisting of a three-phase 4.16/34.5-kilovolt (kV) transformer; and a 34.5-kV, 650-foot-long transmission line; and (10) other appurtenances. The project has a 4,000-foot-long York Dam bypassed reach and a 2,400-foor-long Rolfe Canal bypassed reach.[1]

The Rolfe Canal Project recreation facilities include: (1) a boat launch, located about 2,200 feet upstream of the York Dam; and (2) an unpaved parking area near the launch, which provides 7 parking spaces with additional parking space for vehicles with trailers situated along the boat launch access road.

[1] In the Final License Application, Briar Hydro refers to the portion of the Rolfe Canal below the penstock intake dam as the ''historic channel''. Staff refers to this reach as the Rolfe Canal bypassed reach.

The Penacook Upper Falls Project consists of the following existing facilities: (1) an impoundment with a surface area of 11.4-acres at an elevation of 306.0 feet NGVD29; (2) a 21-foot-high, 187-foot-long timber stoplog dam with a gated concrete spillway; (3) a 58-foot-wide, 15-foot-long forebay; (4) a 12.5-foot-wide, 39.3-foot-high trashrack, with 3.5-inch clear bar spacing; (5) a 44-foot-wide by 81-foot-long, concrete powerhouse, integral to the dam containing one Kaplan turbine generating unit with a capacity of 3.02 megawatts; (6) a 350-foot-long, 47-foot-wide tailrace; (7) transmission facilities consisting of a 4.16/34.5- kilovolt (kV) transformer and a 50-foot-long, 34.5-kV transmission line; and (8) other appurtenances.

The Upper Falls Project recreation facilities include a public park (Penacook Downtown River Park or Riverside Park) located 730 feet upstream from the dam on the east side of the impoundment. It was originally developed by Briar Hydro and the City of Concord. The park includes an amphitheater, which abuts and overlooks the impoundment. The park, which is operated and maintained by the City of Concord, is a non-project amenity.

The Penacook Lower Falls Project consists of the following existing facilities: (1) an impoundment with a surface area of 8.4-acres at an elevation of 278.6 feet NGVD29; (2) a concrete dam with a 15-foot-long, 70-foot-wide forebay; a 106-foot-long, gated spillway, a 316-foot-long auxiliary spillway; and a 140-foot-long, gated diversion structure; (3) a 23.3-foot-long, 46.1-foot-high trash rack with a 3.625-inch clear spacing; (4) a 35-foot-wide by 97.5-foot-long concrete powerhouse, integral with the spillway, containing one Kaplan style turbine-generator unit with a capacity of 4.6 megawatts; (5) a 700-foot-long, 45-foot wide tailrace; (6) transmission facilities consisting of a 4.16/34.5 kilovolt (kV) transformer and 200-foot-long, 34.5-kV transmission line; and (7) other appurtenances.

The Lower Falls Project recreation facilities include: (1) a boat launch, located about 1,000 feet downstream of the Lower Falls powerhouse on the southern bank of the Contoocook River; and (2) an unpaved parking area near the boat launch for up to 20 vehicles, with a vehicle turnaround area.

As required by their current licenses, the Rolfe Canal, Upper Penacook Falls, and Lower Penacook Falls Projects operate in run-of-river mode. When flows exceed the combined capacity of the projects' turbines, excess flows are passed over the dam spillways. To enhance downstream eel passage at the projects, Briar Hydro conducts nightly shutdowns of the generating facilities for three nights after any rain event of 0.25 inches or more within a 24-hour period: (1) during the downstream eel migrating season (August 15 through November 1); or (2) whenever the Contoocook River drops to a water temperature of 50 degrees Fahrenheit (°F), whichever occurs first.

At the Rolf Canal Project, the current license requires the release of a continuous minimum flow of 5 cubic feet per second (cfs) below the penstock intake dam (Rolfe Canal bypassed reach), and a continuous minimum flow of 50 cfs to the York bypassed reach.

At the Upper Falls Project, the current license requires the project to operate the existing upstream passage eel lift, annually, from June 1 through September 15,[2] and operate the existing downstream salmon fish passage, annually, to pass Atlantic salmon through a converted spillway bay leading to a fish sluice discharged into the tailrace.[3]

At the Lower Falls Project, the current license requires the project to operate the existing downstream salmon fish passage, annually, to pass Atlantic salmon to a converted spillway bay leading to a series of plunge pools discharged into the tailrace.[4]

Briar Hydro proposes to operate the projects with the following environmental measures: (1) continue a run-of-river operation at the projects; (2) install a new 0.75-inch clear-space screen over the existing trash racks at the project turbine intakes (i) from August 15 through November 15,[5] (ii) from May 15 through July 15, beginning after a trap-and-haul fish passage program is established at the Lower Falls Project, to prevent entrainment of outmigrating American shad, alewife, and blueback herring (alosines, collectively), (iii) whenever water temperatures in the Contoocook River drop to 50°F, and (iv) from August 15 through November 15, discontinue night-time shutdowns at the projects once the new 0.75-inch overlays are installed; (3) operate the project intakes so the average approach velocity would not exceed 2 feet per second when the new 0.75-inch overlays are installed; (4) construct a new downstream fish passage at the Rolfe Canal and Lower Falls Projects; (5) provide a minimum flow of 100 cubic feet per second (cfs) to the York bypassed reach and 30 cfs to the Rolfe Canal bypassed reach; (6) conduct a feasibility and effectiveness flow study in the Rolfe Canal bypassed reach; (7) install a new roughed channel eel ladder, annually, from June 1 through September 15 for upstream eel passage at the Rolfe Canal and Lower Falls Projects; (8) continue operating the existing upstream passage eel lift at the Upper Falls Project; (9) develop a protection plan for brook floater mussels during planned drawdowns at York Dam; (10) operate the existing downstream fish passage, annually at the Upper Falls Project, for outmigrating American eels and alosines from August 15 through November 15 and May 15 through July 15; (11) construct a trap and haul facility for upstream passage for diadromous fish,[6] to operate at the Lower Falls Project from May 1 to June 30, beginning five years after any new license is issued, and a plan to transport fish from the Lower Falls Project to the boat ramp at the Rolfe Canal Project; (12) construct a new bar rack intake support structure for two 0.75-inch clear bar racks, a new wide-slot bar rack; (13) construct a new surface downstream bypass system at the Lower Falls Project; and (14) continue to maintain the boat launch, including the parking area and access road at the Rolfe Canal and Lower Falls Projects.

m. Copies of the applications can be viewed on the Commission's website at *https://www.ferc.gov* using the ''eLibrary'' link. Enter the project's docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support.

You may also register 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, please

[2] The existing upstream eel lift at the Upper Falls Project is located on the west side of the spillway. Migrant eels are lifted upstream in the bypassed reach to a tank where they are collected, weighed, counted, and measured before being transferred to the head pond.

[3] Currently, the existing downstream fish passage for Atlantic salmon is not in use at the Upper Falls Project. In 2013, the FWS ended its participation in the Merrimack River Salmon Restoration Program and stocking efforts of Atlantic salmon in New Hampshire, as the Central New England District Populating Segment of Atlantic salmon is considered extirpated (65 FR 69,459–69,483 [November 17, 2000]). The existing downstream salmon fish passage at the Upper Falls Project is located a spillway bay west of the powerhouse.

[4] The existing downstream fish passage for Atlantic salmon at the Lower Falls Project is located on the west end of the spillway in a modified spillway bay, adjacent to the powerhouse and is not in use as discussed.

[5] Briar Hydro proposes to extend the downstream passage season for eels to end on November 15 or when water temperatures drop 50°F, whichever comes first.

[6] Diadromous fish include American shad, alewife, blueback herring and American eel.

contact FERC Online Support at *FERCOnlineSupport@ferc.gov.*

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.*

n. *Scoping Process.*

Pursuant to the National Environmental Policy Act (NEPA), Commission staff intends to prepare either an environmental assessment (EA) or an environmental impact statement (EIS) (collectively referred to as the ''NEPA document'') that describes and evaluates the probable effects, including an assessment of the site-specific and cumulative effects, if any, of the proposed action and alternatives. The Commission's scoping process will help determine the required level of analysis and satisfy the NEPA scoping requirements, irrespective of whether the Commission issues an EA or an EIS.

At this time, we do not anticipate holding on-site scoping meetings. Instead, we are soliciting written comments and suggestions on the preliminary list of issues and alternatives to be addressed in the NEPA document, as described in scoping document 1 (SD1), issued December 6, 2023.

Copies of the SD1 outlining the proposed project and subject areas to be addressed in the NEPA document were distributed to the parties on the Commission's mailing list and the applicant's distribution list. Copies of SD1 may be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link (see item m above).

Dated: December 6, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–27226 Filed 12–11–23; 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 corporate filings:

Docket Numbers: EC24–21–000.

Applicants: TotalEnergies Flexible Power USA, LLC, TexGen Power, LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of TotalEnergies Flexible Power USA, LLC, et. al.

Filed Date: 12/4/23.

Accession Number: 20231204–5280.

Comment Date: 5 p.m. ET 12/26/23.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER24–86–000.

Applicants: EFS Parlin Holdings, LLC.

Description: Supplement to October 12, 2023 EFS Parlin Holdings, LLC tariff filing.

Filed Date: 11/30/23.

Accession Number: 20231130–5353.

Comment Date: 5 p.m. ET 12/21/23.

Docket Numbers: ER24–228–002.

Applicants: South Cheyenne Solar, LLC.

Description: Tariff Amendment: Revision of Proposed Market-Based Rate Tariff to be effective 12/1/2023.

Filed Date: 12/1/23.

Accession Number: 20231201–5248.

Comment Date: 5 pm ET 12/11/23.

Docket Numbers: ER24–537–000.

Applicants: Southwestern Public Service Company

Description: Petition for Limited Waiver of Southwestern Public Service Company.

Filed Date: 12/4/23.

Accession Number: 20231204–5142.

Comment Date: 5 pm ET 12/18/23.

Docket Numbers: ER24–543–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to 10 Service Agreements re: FirstEnergy Reorganization to be effective 12/31/9998.

Filed Date: 12/4/23.

Accession Number: 20231204–5212.

Comment Date: 5 pm ET 12/26/23.

Docket Numbers: ER24–544–000.

Applicants: Robin Hollow Solar Lessee, LLC.

Description: Tariff Amendment: Notice of MBR Cancellation to be effective 12/5/2023.

Filed Date: 12/4/23.

Accession Number: 20231204–5223.

Comment Date: 5 pm ET 12/26/23.

Docket Numbers: ER24–545–000.

Applicants: American Electric Power Service Corporation, Appalachian Power Company.

Description: Petition for Limited Waiver of Appalachian Power Company.

Filed Date: 12/4/23.

Accession Number: 20231204–5283.

Comment Date: 5 pm ET 12/26/23.

Docket Numbers: ER24–546–000.

Applicants: Virginia Electric and Power Company, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Virginia Electric and Power Company submits tariff filing per 35.13(a)(2)(iii: VEPCO submits One WDSA, SA No. 7136 to be effective 11/6/2023.

Filed Date: 12/5/23.

Accession Number: 20231205–5045.

Comment Date: 5 pm ET 12/26/23.

Docket Numbers: ER24–547–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Revisions to Modify Operating Tolerances for Uninstructued Resource Deviation to be effective 12/31/9998.

Filed Date: 12/5/23.

Accession Number: 20231205–5071.

Comment Date: 5 pm ET 12/26/23.

Docket Numbers: ER24–548–000.

Applicants: Dow Hydrocarbons and Resources LLC.

Description: Baseline eTariff Filing: Petition for Approval of Initial Market-Based Rate Tariff to be effective 2/4/2024.

Filed Date: 12/5/23.

Accession Number: 20231205–5078.

Comment Date: 5 pm ET 12/26/23.

Docket Numbers: ER24–549–000.

Applicants: Santa Rosa Energy Center, LLC.

Description: § 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 12/6/2023.

Filed Date: 12/5/23.

Accession Number: 20231205–5102.

Comment Date: 5 pm ET 12/26/23.

Docket Numbers: ER24–550–000.

Applicants: Arizona Public Service Company.

Description: § 205(d) Rate Filing: Rate Schedule No. 292, Amendment No. 1 to be effective 2/4/2024.

Filed Date: 12/5/23.

Accession Number: 20231205–5125.

Comment Date: 5 pm ET 12/26/23.

Docket Numbers: ER24–551–000.

Applicants: Elkhart County Solar Project, LLC.

Description: Baseline eTariff Filing: Market-Based Rate Application to be effective 2/4/2024.

Filed Date: 12/5/23.

Accession Number: 20231205–5133.

Comment Date: 5 pm ET 12/26/23.

Docket Numbers: ER24–552–000.

Applicants: Martin County II Solar Project, LLC.

Description: Baseline eTariff Filing: Market-Based Rate Application to be effective 2/4/2024.

Filed Date: 12/5/23.

Accession Number: 20231205–5135.
Comment Date: 5 pm ET 12/26/23.
Docket Numbers: ER24–553–000.
Applicants: Martin County Solar Project, LLC.
Description: Baseline eTariff Filing: Market-Based Rate Application to be effective 2/4/2024.
Filed Date: 12/5/23.
Accession Number: 20231205–5136.
Comment Date: 5 pm ET 12/26/23.

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 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: December 5, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–27230 Filed 12–11–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11426–000]

T.A. Keck III and H.S. Keck; Notice of Authorization for Continued Project Operation

The license for the Blackstone Mill Hydroelectric Project No. 11426 was issued for a period ending October 31, 2023.

Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 11426 is issued to T.A. Keck III and H.S. Keck for a period effective November 1, 2023, through October 31, 2024, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before October 31, 2024, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that T.A. Keck III and H.S. Keck is authorized to continue operation of the Blackstone Mill Hydroelectric Project under the terms and conditions of the prior license until the issuance of a subsequent license for the project or other disposition under the FPA, whichever comes first.

Dated: December 5, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–27227 Filed 12–11–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–373–000]

Yellow Pine Solar Interconnect, LLC; Supplemental Notice That Filing Includes Request for Blanket Section 204 Authorization

This supplemental notice in the above-referenced proceeding of Yellow Pine Solar Interconnect, LLC's filing 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 December 26, 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.

Dated: December 5, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–27232 Filed 12–11–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL24–16–000]

Wabash Valley Power Association, Inc.; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On December 5, 2023, the Commission issued an order in Docket No. EL24–16–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, instituting an investigation to determine whether Wabash Valley Power Association, Inc.'s Formulary Rate Tariff is unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. *Wabash Valley Power Ass'n,* 185 FERC ¶ 61,082 (2023).

The refund effective date in Docket No. EL24–16–000, established pursuant to section 206(b) of the FPA, 16 U.S.C. 824e(b), will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL24–16–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2022), within 21 days of the date of issuance of the order.

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 FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFile'' link at *http://www.ferc.gov.* 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 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: December 6, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–27225 Filed 12–11–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e) (1) (v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. This filing may be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket Nos.	File date	Presenter or requester
Prohibited:		
1. ER23–2398–000	11–29–2023	FERC Staff [1]
2. ER23–2398–000	12–1–2023	FERC Staff [2]
Exempt:		
1. EL24–3–000	11–30–2023	U.S. Congress [3]

Dated: December 5, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–27229 Filed 12–11–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP24–20–000]

Wyoming Interstate Company, L.L.C.; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on November 29, 2023, Wyoming Interstate Company, L.L.C. (WIC), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in the above referenced docket, a prior notice request pursuant to sections 157.205, 157.208 and 157.210 of the Commission's regulations under the Natural Gas Act (NGA), and WIC's blanket certificate issued in Docket No. CP83–22–000, for authorization to make certain modifications at its existing Wamsutter Compressor Station. All of the above facilities are located in Sweetwater County, Wyoming (Cheyenne to Piceance Expansion Project). The project will allow WIC to generate incremental east to west firm natural gas transportation capacity of approximately 180,000 dekatherms per day on WIC's mainline system. The estimated cost for the project is $23,300,000, 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. Public access to records formerly available in the Commission's physical Public Reference Room, which was located at the Commission's headquarters, 888 First Street NE, Washington, DC 20426, are now available via the Commission's website. 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 Francisco Tarin, Director, Regulatory, Wyoming Interstate Company, L.L.C., Two North Nevada Avenue, Colorado Springs, Colorado 80903, at (719) 667–7515, or *Francisco_tarin@kindermorgan.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 February 5, 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 February 5, 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 Procedure [4] and the regulations under the NGA [5] by the intervention deadline for the project, which is February 5, 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

[1] Emailed comments dated 11/28/23 from Joshua S. Finn.

[2] Emailed comments dated 11/28/23 from Joshua S. Finn.

[3] Senators John Thune, M. Michael Rounds, and Congressman Dusty Johnson.

[1] 18 CFR 157.205.

[2] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[3] 18 CFR 157.205(e).

[4] 18 CFR 385.214.

[5] 18 CFR 157.10.

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 February 5, 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 CP24–20–000 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 CP24–20–000.

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: Francisco Tarin, Director, Regulatory, Wyoming Interstate Company, L.L.C., Two North Nevada Avenue, Colorado Springs, Colorado 80903, or *Francisco_tarin@kindermorgan.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.*

Dated: December 6, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–27222 Filed 12–11–23; 8:45 am]

BILLING CODE 6717–01–P

[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.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Effectiveness of Exempt Wholesale Generator Status

	Docket Nos.
River Ferry Solar I LLC	EG23–277–000
Bernard Creek Solar LLC	EG23–278–000
Borden County Battery Energy Storage System LLC	EG23–279–000
Cald BESS LLC	EG23–280–000
Castle Solar, LLC	EG23–281–000
Elektron Solar, LLC	EG23–282–000
Horseshoe Solar, LLC	EG23–283–000
Rocket Solar, LLC	EG23–284–000
Moraine Sands Wind Power, LLC	EG23–285–000
Earp Solar, LLC	EG23–286–000
BCD 2023 Fund 1 Lessee, LLC	EG23–287–000
Maverick Clean Energy Center, LLC	EG23–288–000
Harris Spencer BESS, LLC	EG23–289–000
Brazoria Winmil BESS, LLC	EG23–290–000
Harris CenterPoint BESS, LLC	EG23–291–000
South Energy Investments, LLC	EG23–293–000
Horizon Hill Wind, LLC	EG23–294–000
White Rock Wind East, LLC	EG23–295–000
White Rock Wind West, LLC	EG23–296–000
House Mountain LLC	EG23–297–000
Sky Ranch Solar, LLC	EG23–298–000
Hardin Solar Energy II LLC	EG23–299–000
Proxima Solar, LLC	EG23–300–000
Midland Wind, LLC	EG23–301–000
Sierra Estrella Energy Storage LLC	EG23–302–000
Superstition Energy Storage LLC	EG23–303–000
Cane Creek Solar, LLC	EG23–304–000
PGR 2022 Lessee 4, LLC	EG23–305–000
Canyon Wind Energy, LLC	EG23–306–000
Roadrunner Crossing Wind Farm, LLC	EG23–307–000
Lone Star Solar, LLC	EG23–308–000
MS Solar 6, LLC	EG23–309–000

Take notice that during the month of November 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: December 6, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–27223 Filed 12–11–23; 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 corporate filings:

Docket Numbers: EC24–22–000.

Applicants: CXA La Paloma, LLC, Capital Power Investments LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of CXA La Paloma, LLC.

Filed Date: 12/5/23.

Accession Number: 20231205–5165.

Comment Date: 5 p.m. ET 12/26/23.

Docket Numbers: EC24–23–000.

Applicants: New Harquahala Generating Company, LLC, Capital Power Investments LLC, GEPIF III Trident HoldCo, L.P., Trident AcquisitionCo LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of New Harquahala Generating Company, LLC.

Filed Date: 12/5/23.
Accession Number: 20231205–5167.
Comment Date: 5 p.m. ET 12/26/23.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG24–51–000.
Applicants: Carpenter Wind Farm LLC.
Description: Carpenter Wind Farm LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 12/6/23.
Accession Number: 20231206–5032.
Comment Date: 5 p.m. ET 12/27/23.

Docket Numbers: EG24–52–000.
Applicants: Cattlemen Solar Park II LLC.
Description: Cattlemen Solar Park II LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 12/6/23.
Accession Number: 20231206–5034.
Comment Date: 5 p.m. ET 12/27/23.

Docket Numbers: EG24–53–000.
Applicants: Crooked Lake Solar II LLC.
Description: Crooked Lake Solar II LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 12/6/23.
Accession Number: 20231206–5035.
Comment Date: 5 p.m. ET 12/27/23.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER23–2138–002.
Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.
Description: Tariff Amendment: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.17(b): 2023–12–06_SA 4085 Ameren IL—SIPC IA to be effective 8/14/2023.
Filed Date: 12/6/23.
Accession Number: 20231206–5098.
Comment Date: 5 p.m. ET 12/27/23.

Docket Numbers: ER23–2810–001.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Tariff Amendment: 2023–12–06_SA 3388 Deficiency Response ATXI—Knox County Sub 2nd Rev GIA (J844) to be effective 9/12/2023.
Filed Date: 12/6/23.
Accession Number: 20231206–5139.
Comment Date: 5 p.m. ET 12/27/23.

Docket Numbers: ER24–61–000.
Applicants: Sky Ranch Solar, LLC.
Description: Supplement to October 10, 2023, Sky Ranch Solar, LLC tariff filing.
Filed Date: 12/5/23.
Accession Number: 20231205–5169.
Comment Date: 5 p.m. ET 12/15/23.

Docket Numbers: ER24–554–000.
Applicants: NorthWestern Corporation.
Description: § 205(d) Rate Filing: SA 921 1st Rev—PTP with Portland General Electric Co to be effective 12/1/2023.
Filed Date: 12/5/23.
Accession Number: 20231205–5152.
Comment Date: 5 p.m. ET 12/26/23.

Docket Numbers: ER24–555–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to WMPA, SA No. 4841; Queue No. AC2–136 (amend) to be effective 2/5/2024.
Filed Date: 12/6/23.
Accession Number: 20231206–5031.
Comment Date: 5 p.m. ET 12/27/23.

Docket Numbers: ER24–556–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2023–12–06_SA 4066 NIPSCO-Sedge Meadow Solar Park 1st Rev GIA (J1407) to be effective 11/27/2023.
Filed Date: 12/6/23.
Accession Number: 20231206–5069.
Comment Date: 5 p.m. ET 12/27/23.

Docket Numbers: ER24–557–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to ISA, Service Agreement No. 6473; Queue No. AE1–153 to be effective 2/5/2024.
Filed Date: 12/6/23.
Accession Number: 20231206–5075.
Comment Date: 5 p.m. ET 12/27/23.

Docket Numbers: ER24–558–000.
Applicants: Puget Sound Energy, Inc.
Description: Tariff Amendment: Cancellation of Service Agreements between PSE/Center Drive Owners Association to be effective 12/1/2023.
Filed Date: 12/6/23.
Accession Number: 20231206–5088.
Comment Date: 5 p.m. ET 12/27/23.

Docket Numbers: ER24–559–000.
Applicants: American Kings Solar, LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 12/7/2023.
Filed Date: 12/6/23.
Accession Number: 20231206–5101.
Comment Date: 5 p.m. ET 12/27/23.

Docket Numbers: ER24–560–000.
Applicants: Carpenter Wind Farm LLC.
Description: Baseline eTariff Filing: Market-Based Rate Application to be effective 2/5/2024.
Filed Date: 12/6/23.
Accession Number: 20231206–5107.
Comment Date: 5 p.m. ET 12/27/23.

Docket Numbers: ER24–561–000.
Applicants: VESI 23 LLC.
Description: Baseline eTariff Filing: Petition for Approval of Initial Market-Based Rate Tariff to be effective 12/7/2023.
Filed Date: 12/6/23.
Accession Number: 20231206–5109.
Comment Date: 5 p.m. ET 12/27/23.

Docket Numbers: ER24–562–000.
Applicants: Branscomb Solar, LLC
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 12/7/2023.
Filed Date: 12/6/23.
Accession Number: 20231206–5111.
Comment Date: 5 p.m. ET 12/27/23.

Docket Numbers: ER24–563–000.
Applicants: Crooked Lake Solar II LLC.
Description: Baseline eTariff Filing: Market-Based Rate Application to be effective 2/5/2024.
Filed Date: 12/6/23.
Accession Number: 20231206–5112.
Comment Date: 5 p.m. ET 12/27/23.

Docket Numbers: ER24–564–000.
Applicants: VESI 12 LLC.
Description: Baseline eTariff Filing: Petition for Approval of Initial Market-Based Rate Tariff to be effective 1/1/2024.
Filed Date: 12/6/23.
Accession Number: 20231206–5113.
Comment Date: 5 p.m. ET 12/27/23.

Docket Numbers: ER24–565–000.
Applicants: Midcontinent Independent System Operator, Inc., Ameren Transmission Company of Illinois.
Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2023–12–06_ATXI Request for Approval of Transmission Rate Incentives to be effective 2/5/2024.
Filed Date: 12/6/23.
Accession Number: 20231206–5116.
Comment Date: 5 p.m. ET 12/27/23.

Docket Numbers: ER24–566–000.
Applicants: Darby Solar, LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 12/7/2023.
Filed Date: 12/6/23.
Accession Number: 20231206–5117.
Comment Date: 5 p.m. ET 12/27/23.

Docket Numbers: ER24–567–000.
Applicants: Dry Bridge Solar 1, LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 12/7/2023.
Filed Date: 12/6/23.
Accession Number: 20231206–5120.
Comment Date: 5 p.m. ET 12/27/23.

Docket Numbers: ER24–568–000.
Applicants: Dry Bridge Solar 2, LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 12/7/2023.

Filed Date: 12/6/23.
Accession Number: 20231206–5122.
Comment Date: 5 p.m. ET 12/27/23.
Docket Numbers: ER24–569–000.
Applicants: Dry Bridge Solar 3, LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 12/7/2023.
Filed Date: 12/6/23.
Accession Number: 20231206–5129.
Comment Date: 5 p.m. ET 12/27/23.
Docket Numbers: ER24–570–000.
Applicants: Dry Bridge Solar 4, LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 12/7/2023.
Filed Date: 12/6/23.
Accession Number: 20231206–5133.
Comment Date: 5 p.m. ET 12/27/23.
Docket Numbers: ER24–571–000.
Applicants: ELP Stillwater Solar, LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 12/7/2023.
Filed Date: 12/6/23.
Accession Number: 20231206–5136.
Comment Date: 5 p.m. ET 12/27/23.
Docket Numbers: ER24–572–000.
Applicants: Grissom Solar, LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 12/7/2023.
Filed Date: 12/6/23.
Accession Number: 20231206–5137.
Comment Date: 5 p.m. ET 12/27/23.
Docket Numbers: ER24–573–000.
Applicants: HDSI, LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 12/7/2023.
Filed Date: 12/6/23.
Accession Number: 20231206–5143.
Comment Date: 5 p.m. ET 12/27/23.
Docket Numbers: ER24–574–000.
Applicants: Innovative Solar 31, LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 12/7/2023.
Filed Date: 12/6/23.
Accession Number: 20231206–5145.
Comment Date: 5 p.m. ET 12/27/23.
Docket Numbers: ER24–575–000.
Applicants: Innovative Solar 47, LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 12/7/2023.
Filed Date: 12/6/23.
Accession Number: 20231206–5152.
Comment Date: 5 p.m. ET 12/27/23.
Docket Numbers: ER24–576–000.
Applicants: Janis Solar, LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 12/7/2023.
Filed Date: 12/6/23.
Accession Number: 20231206–5156.
Comment Date: 5 p.m. ET 12/27/23.

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 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: December 6, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–27224 Filed 12–11–23; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2008–0351, FRL–11606–01–OCSPP]

Product Cancellation Order for Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the cancellations, voluntarily requested by the registrants and accepted by the Agency, of the diazinon products listed in Table 1 of Unit II., pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This cancellation order follows an October 23, 2023, **Federal Register** Notice of Receipt of Requests from the registrants listed in Table 2 of Unit II. to voluntarily cancel these product registrations. In the October 23, 2023, notice, EPA indicated that it would issue an order implementing the cancellations, unless the Agency received substantive comments within the 30-day comment period that would merit its further review of these requests, or unless the registrants withdrew their requests. The Agency received a comment on the notice, but it did not merit further review of the requests. Further, the registrants did not withdraw their requests. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested cancellations. Any distribution, sale, or use of the products subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The cancellations are effective December 12, 2023.

FOR FURTHER INFORMATION CONTACT: Alex McKee, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–1939; email address: *mckee.alex@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2008–0351, is available at *https://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP

Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *https://www.epa.gov/dockets.*

II. What action is the Agency taking?

This notice announces the cancellation, as requested by registrant(s), of products registered under FIFRA section 3 (7 U.S.C. 136a). These registrations are listed in sequence by registration number in Table 1 of this unit.

TABLE 1—PRODUCT CANCELLATIONS

Registration No.	Company No.	Product name	Active ingredients
66222–10	66222	Diazinon 50W	Diazinon.
TX040026	66222	Diazinon AG500	Diazinon.
ID070003	66222	Diazinon AG600 WBC Insecticide	Diazinon.
ID030018	66222	Diazinon AG500	Diazinon.
CA050002	66222	Diazinon AG500	Diazinon.
ID020003	5905	Diazinon AG500	Diazinon.
GA020002	5905	Diazinon AG500	Diazinon.
GA020003	5905	Diazinon AG500	Diazinon.
19713–492	19713	Drexel Diazinon 50WP	Diazinon.

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in Table 1 of this unit.

TABLE 2—REGISTRANTS OF CANCELLED PRODUCTS

EPA company No.	Company name and address
66222 ...	Adama US, 8601 Six Forks Road, Suite 300, Raleigh, NC 27615.
19713 ...	Drexel Chemical Company, 1700 Channel Avenue, P.O. Box 13327, Memphis, TN 38113.
5905	Helena Agri-Enterprises, LLC, 225 Schilling Boulevard, Suite 300, Collierville, TN 38017.

III. Summary of Public Comments Received and Agency Response to Comments

The Agency received one comment on the October 23, 2023 ''Notice of Receipt.'' The comment did not specify the products listed in Table 1 of Unit II. or address any aspect of voluntary product cancellations. EPA has determined that this comment does not merit further review or a denial of those cancellations.

IV. Cancellation Order

Pursuant to FIFRA section 6(f) (7 U.S.C. 136d(f)), EPA hereby approves the requested cancellations of the registrations identified in Table 1 of Unit II. Accordingly, the Agency hereby orders that the product registrations identified in Table 1 of Unit II. are canceled. The effective date of the cancellations that are the subject of this notice is December 12, 2023. Any distribution, sale, or use of existing stocks of the products identified in Table 1 of Unit II. in a manner inconsistent with any of the provisions for disposition of existing stocks set forth in Unit VI. will be a violation of FIFRA.

V. What is the Agency's authority for taking this action?

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the EPA Administrator may approve such a request. The notice of receipt for this action was published for comment in the **Federal Register** on October 23, 2023 (88 FR 72752) (FRL 11516–01–OCSPP). The comment period closed on November 22, 2023.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States, and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. The existing stocks provisions for the products subject to this order are as follows.

The registrants may continue to sell and distribute existing stocks of products listed in Table 1 of Unit II. until December 12, 2024, which is 1 year after the publication of the Cancellation Order in the **Federal Register**. Thereafter, the registrants are prohibited from selling or distributing products listed in Table 1, except for export in accordance with FIFRA section 17 (7 U.S.C. 136o), or proper disposal. Persons other than the registrants may sell, distribute, or use existing stocks of products listed in Table 1 of Unit II. until existing stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

Authority: 7 U.S.C. 136 *et seq.*

Dated: December 7, 2023.

Timothy Kiely,

Acting Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2023–27191 Filed 12–11–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–11367–02–R6]

Public Water System Supervision Program Revision for the State of Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final approval.

SUMMARY: Notice is hereby given that the State of Texas is revising its approved Public Water System Supervision (PWSS) program. Texas has adopted the Environmental Protection Agency (EPA) drinking water rules for the Revised Total Coliform Rule (RTCR) and Ground Water Rule (GWR). Therefore, EPA has approved these PWSS program revision packages following a public hearing period.

DATES: Decision for approval of Texas PWSS program revision is final on December 12, 2023.

FOR FURTHER INFORMATION CONTACT: José G. Rodriguez, EPA Region 6, Drinking Water Section (6WD–DD) at 1201 Elm St, Dallas, TX 75270, or by telephone at

(214) 665–8087, or by email at *Rodriguez.Jose@epa.gov.*

SUPPLEMENTARY INFORMATION: On October 5, 2023, EPA published notice of tentative approval and solicitation of requests for public hearing (88 FR 69178). No timely or appropriate requests for public hearing were received within the 30-day period. Therefore, EPA issues final approval of the Texas PWSS program revisions effective on December 12, 2023.

Authority: Section 1413 of the Safe Drinking Water Act, as amended (1996), and 40 CFR part 142 of the National Primary Drinking Water Regulations.

Dated: December 6, 2023.

Earthea Nance,

Regional Administrator, Region 6.

[FR Doc. 2023–27154 Filed 12–11–23; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID 190215]

Open Commission Meeting Wednesday, December 13, 2023

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wednesday, December 13, 2023, which is scheduled to commence at 10:30 a.m. in the Commission Meeting Room of the Federal Communications Commission, 45 L Street NE, Washington, DC.

While attendance at the Open Meeting is available to the public, the FCC headquarters building is not open access and all guests must check in with and be screened by FCC security at the main entrance on L Street. Attendees at the Open Meeting will not be required to have an appointment but must otherwise comply with protocols outlined at: *www.fcc.gov/visit.* Open Meetings are streamed live at: *www.fcc.gov/live* and on the FCC's YouTube channel.

Item No.	Bureau	Subject
1	MEDIA	*TITLE:* Protecting Consumers from Early Termination and Billing Cycle Fees (MB Docket No. 23–405). *SUMMARY:* The Commission will consider a Notice of Proposed Rulemaking that would propose rules to protect consumers from video service junk fees, including early termination fees and billing cycle fees.
2	CONSUMER AND GOVERNMENTAL AFFAIRS.	*TITLE:* Targeting and Eliminating Unlawful Text Messages (CG Docket No. 21–402); Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991 (CG Docket No. 02–278); and Advanced Methods to Target and Eliminate Unlawful Robocalls (CG Docket No. 17–59). *SUMMARY:* The Commission will consider a Second Report and Order, Second Further Notice of Proposed Rulemaking and Waiver Order to combat illegal robotexts by facilitating blocking of illegal robotexts, codifying do-not-call rules for texting, and closing a loophole that allows certain callers to inundate consumers with unwanted robocalls and robotexts. The item also seeks comment on further efforts to combat illegal robocalls and robotexts.
3	WIRELESS TELECOMMUNICATIONS	*TITLE:* Achieving 100% Wireless Handset Model Hearing Aid Compatibility (WT Docket No. 23–388). *SUMMARY:* The Commission will consider a Notice of Proposed Rulemaking that tentatively concludes that hearing aid compatibility for 100% of wireless handset models is an achievable objective and seeks comment on proposals to implement this requirement.
4	WIRELINE COMPETITION	*TITLE:* Faster Pole Attachment Processes for Broadband Deployment (WC Docket No. 17–84). *SUMMARY:* The Commission will consider a Fourth Report and Order, Declaratory Ruling, and Third Further Notice of Proposed Rulemaking to promote the deployment of broadband infrastructure by making the pole attachment process faster, more transparent, and more cost-effective by adopting rules allowing for faster resolution of pole attachment disputes and providing pole attachers with more detailed information about the poles they plan to use as part of their broadband buildouts. The Commission will also seek comment on ways to further facilitate the approval process for pole attachment applications and make ready to enable quicker broadband deployment.
5	WIRELINE COMPETITION	*TITLE:* Improving the Rural Health Care Program (WC Docket No. 17–310). *SUMMARY:* The Commission will consider a Third Report and Order to improve the effectiveness and efficiency of the Rural Health Care Program. The improvements under consideration would reduce burdens on, and enhance flexibility for, program participants, simplify existing program rules, and free up for other uses unclaimed program support.
6	WIRELINE COMPETITION	*TITLE:* Data Breach Notification Rules (WC Docket No. 22–21). *SUMMARY:* The Commission will consider a Report and Order to update the Commission's data breach notification rules in order to ensure that providers are held accountable in their obligations to safeguard sensitive customer information, and provide customers with the tools needed to protect themselves in the event that their data is compromised.
7	MEDIA	*TITLE:* Implementation of the Low Power Protection Act (MB Docket No. 23–126). *SUMMARY:* The Commission will consider a Report and Order to implement the Low Power Protection Act by providing eligible low-power television stations with an opportunity to apply for primary status and protect their ability to deliver local programming.
8	ENFORCEMENT	*TITLE:* Enforcement Bureau Action. *SUMMARY:* The Commission will consider an enforcement action.

* * * * *

The meeting will be webcast at: *www.fcc.gov/live.* Open captioning will be provided as well as a text only version on the FCC website. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted but may be impossible to fill. Send an email to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530.

Press Access—Members of the news media are welcome to attend the meeting and will be provided reserved seating on a first-come, first-served basis. Following the meeting, the Chairwoman may hold a news conference in which she will take questions from credentialed members of the press in attendance. Also, senior policy and legal staff will be made available to the press in attendance for questions related to the items on the meeting agenda. Commissioners may also choose to hold press conferences. Press may also direct questions to the Office of Media Relations (OMR): *MediaRelations@fcc.gov.* Questions about credentialing should be directed to OMR.

Additional information concerning this meeting may be obtained from the Office of Media Relations, (202) 418–0500. Audio/Video coverage of the meeting will be broadcast live with open captioning over the internet from the FCC Live web page at *www.fcc.gov/live.*

Federal Communications Commission.
Dated: December 6, 2023.

Marlene Dortch,

Secretary.

[FR Doc. 2023–27208 Filed 12–11–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

TIME AND DATE: Thursday, December 14, 2023, at 10:30 a.m.

PLACE: *Hybrid Meeting:* 1050 First Street NE Washington, DC 12th and Virtual.

Note: For those attending the meeting in person, current COVID–19 safety protocols for visitors, which are based on the CDC COVID–19 hospital admission level in Washington, DC, will be updated on the Commission's contact page by the Monday before the meeting. See the contact page at *https://www.fec.gov/contact/.* If you would like to virtually access the meeting, see the instructions below.

STATUS: This meeting will be open to the public, subject to the above-referenced guidance regarding the COVID–19 hospital admission level and corresponding health and safety procedures. To access the meeting virtually, go to the Commission's website *www.fec.gov* and click on the banner to be taken to the meeting page.

MATTERS TO BE CONSIDERED:

Draft Advisory Opinion 2023–08: Cowboy Analytics, LLC
REG 2021–01 (Candidate Salaries)—Draft Final Rules and Explanation and Justification
REG 2013–01 (Technological Modernization)—Draft Final Rules and Explanation and Justification
Draft Legislative Recommendations 2023
Election of Officers for 2024
Management and Administrative Matters

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Individuals who plan to attend in person and who require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Laura E. Sinram, Secretary and Clerk, at (202) 694–1040 or *secretary@fec.gov,* at least 72 hours prior to the meeting date.

(Authority: Government in the Sunshine Act, 5 U.S.C. 552b)

Laura E. Sinram,

Secretary and Clerk of the Commission.

[FR Doc. 2023–27286 Filed 12–8–23; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS23–20]

Appraisal Subcommittee Notice of Meeting

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

ACTION: Notice of special closed meeting.

SUMMARY: 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) met for a Special Closed Meeting on this date.

Location: Virtual meeting via Webex.
Date: December 6, 2023.
Time: 10:00 a.m. ET.

Action and Discussion Item

Personnel Matter

The ASC convened a Special Closed Meeting to discuss a personnel matter. No action was taken by the ASC.

James R. Park,

Executive Director.

[FR Doc. 2023–27152 Filed 12–11–23; 8:45 am]

BILLING CODE 6700–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551–0001, not later than December 27, 2023.

A. Federal Reserve Bank of Kansas City (Jeffrey Imgarten, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri, 64198–0001. Comments can also be sent electronically to *KCApplicationComments@kc.frb.org:*

1. *Jeff A. Berkley, Lawrence, Kansas, as co-trustee of the H.J. Berkley Trust U/A dated 05/06/69, Salina, Kansas, the Karla J. Spurgeon Trust II, the Karen M. Deckert Trust II, the Calvin J. Berkley Trust II, the Marika Spurgeon GP Trust, the Brenna Spurgeon GP Trust, the Patrick Spurgeon GP Trust, the Samuel Deckert GP Trust, the Lucas Deckert GP Trust, the Megan Berkley GP Trust, and the Collin Berkley GP Trust, all of Tescott, Kansas; Jonathan D. Berkley, Stockton, Kansas, as co-trustee of the*

H.J. Berkley Trust U/A dated 05/06/69, and the Robert B. Berkley Trust U/A dated 12/01/67, both of Salina, Kansas; the Don Berkley Trust No. 2, Don and Patricia Berkley, as co-trustees, all of Abilene, Kansas; the Jerry J. Berkley Trust No. 2, Eleanor A. Berkley and Bruce A. Berkley, as co-trustees, all of Downs, Kansas, and Cheryl L. Jamison, as co-trustee of the aforementioned trust, Emporia, Kansas; the Paul D. Berkley Trust No. 2, Bill Berkley, as co-trustee, both of Downs, Kansas, Brandon Berkley, Denver, Colorado, and Bradley Berkley, Dallas, Texas, as co-trustees of the aforementioned trust; the Robert B. Berkley Family Trust, Lila A. Berkley, as co-trustee, both of Salina, Kansas, Lila Jean Alexander, Houston, Texas, and John A. Berkley, Stockton, Kansas, as co-trustees of the aforementioned trust; the Hal J. Berkley Trust A and the Eleanor L. Berkley Trust, Hal J. Berkley and Eleanor L. Berkley, as co-trustees, all of Tescott, Kansas; the Karla J. Spurgeon Trust II, the Marika Spurgeon GP Trust, the Brenna Spurgeon GP Trust, and the Patrick Spurgeon GP Trust, Karen M. Deckert and Calvin J. Berkley, as co-trustees, all of Tescott, Kansas, and Jeff A. Berkley, as co-trustee; the Karen M. Deckert Trust II, the Samuel Deckert GP Trust, and the Lucas Deckert GP Trust, all of Tescott, Kansas, Karla J. Spurgeon, Lawrence, Kansas, Jeff A. Berkley, and Calvin J. Berkley, as co-trustees; the Jeff A. Berkley Trust II, the Rebekah Berkley GP Trust, and the Rachel Berkley GP Trust, all of Tescott, Kansas, Karla J. Spurgeon, Karen M. Deckert, and Calvin J. Berkley, as co-trustees; the Calvin J. Berkley Trust II, the Megan Berkley GP Trust, and the Collin Berkley GP Trust, all of Tescott, Kansas, Karla J. Spurgeon, Karen M. Deckert, and Jeff A. Berkley as co-trustees; the Paula C. Nelson Trust No. 2, Paula Nelson, as trustee, both of Tescott, Kansas; the Mary Beth Phelps Trust No. 2, Mary Beth Phelps, as trustee, both of Tescott, Kansas; the Mark A. Berkley Trust and the Jane B. Berkley Trust, Mark A. and Jane B. Berkley, as co-trustees, all of Leawood, Kansas; Elizabeth E. Berkley, Naples, Florida, as co-trustee of the Stuart C. Berkley Trust and the Melissa J. Berkley Trust, both of Leawood, Kansas; Stuart C. Berkley, Prairie Village, Kansas, as co-trustee of the Elizabeth E. Berkley Trust and the Melissa J. Berkley Trust, both of Leawood, Kansas; Melissa Ungashick, Overland Park, Kansas, as co-trustee of the Stuart C. Berkley Trust and the Elizabeth E. Berkley Trust; Earl H. Matthews and Burke L. Matthews, both of Salina, Kansas; to join the Berkley Family Group, a group acting in concert, to retain voting shares of Tescott Bancshares, Inc., and thereby indirectly retain voting shares of The Bank of Tescott, both of Tescott, Kansas.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2023–27237 Filed 12–11–23; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Supplemental Evidence and Data Request on Systematic Review—Interventions To Improve Care of Bereaved Persons

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Request for supplemental evidence and data submission.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) is seeking scientific information submissions from the public. Scientific information is being solicited to inform our review on *Systematic Review—Interventions to Improve Care of Bereaved Persons,* which is currently being conducted by the AHRQ's Evidence-based Practice Centers (EPC) Program. Access to published and unpublished pertinent scientific information will improve the quality of this review.

DATES: *Submission Deadline* on or before January 11, 2024.

ADDRESSES:

Email submissions: epc@ahrq.hhs.gov.

Print submissions:

Mailing Address: Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E53A, Rockville, MD 20857.

Shipping Address (FedEx, UPS, etc.):, Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E77D, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Kelly Carper, Telephone: 301–427–1656 or Email: *epc@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION: The Agency for Healthcare Research and Quality has commissioned the Evidence-based Practice Centers (EPC) Program to complete a review of the evidence for *Systematic Review—Interventions to Improve Care of Bereaved Persons.* AHRQ is conducting this review pursuant to section 902 of the Public Health Service Act, 42 U.S.C. 299a.

The EPC Program is dedicated to identifying as many studies as possible that are relevant to the questions for each of its reviews. In order to do so, we are supplementing the usual manual and electronic database searches of the literature by requesting information from the public (*e.g.,* details of studies conducted). We are looking for studies that report on *Systematic Review—Interventions to Improve Care of Bereaved Persons.* The entire research protocol is available online at: *https://effectivehealthcare.ahrq.gov/products/bereaved-persons/protocol.*

This is to notify the public that the EPC Program would find the following information on *Systematic Review—Interventions to Improve Care of Bereaved Persons* helpful:

- A list of completed studies that your organization has sponsored for this topic. In the list, please *indicate whether results are available on ClinicalTrials.gov along with the ClinicalTrials.gov trial number.*
- *For completed studies that do not have results on ClinicalTrials.gov,* a summary, including the following elements, if relevant: study number, study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, primary and secondary outcomes, baseline characteristics, number of patients screened/eligible/enrolled/lost to follow-up/withdrawn/analyzed, effectiveness/efficacy, and safety results.
- *A list of ongoing studies that your organization has sponsored for this topic.* In the list, please provide the ClinicalTrials.gov trial number or, if the trial is not registered, the protocol for the study including, if relevant, a study number, the study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, and primary and secondary outcomes.
- Description of whether the above studies constitute *ALL Phase II and above clinical trials* sponsored by your organization for this topic and an index outlining the relevant information in each submitted file.

Your contribution is very beneficial to the Program. Materials submitted must be publicly available or able to be made public. Materials that are considered confidential; marketing materials; study types not included in the review; or information on topics not included in

the review cannot be used by the EPC Program. This is a voluntary request for information, and all costs for complying with this request must be borne by the submitter.

The draft of this review will be posted on AHRQ's EPC Program website and available for public comment for a period of 4 weeks. If you would like to be notified when the draft is posted, please sign up for the email list at: *https://www.effectivehealthcare.ahrq.gov/email-updates.*

The review will answer the following questions. This information is provided as background. AHRQ is not requesting that the public provide answers to these questions.

Key Questions (KQ)

Key Question 1: What is the effectiveness and harms of universally screening people for bereavement and response to loss?

a. *Timing:* predeath, acute, or 6–12 months post loss, and more than 1 year post loss?

b. Does effectiveness vary by patient characteristic or setting?

Key Question 2: How accurate are tools to identify bereaved persons at risk for or with grief disorders?

Key Question 3: What are the effectiveness, comparative effectiveness, and harms of interventions for people at risk for grief disorders related to bereavement?

a. *Timing:* predeath, acute, or 6–12 months post loss, and more than 1 year post loss?

b. Does effectiveness vary by patient characteristic or setting?

Key Question 4: What are the effectiveness, comparative effectiveness and harms of interventions for people diagnosed with grief-related disorders?

a. Does effectiveness vary by patient characteristic or setting?

PICOTS (Populations, Interventions, Comparators, Outcomes, Timing, and Setting) Eligibility Criteria

Element	Inclusion criteria	Exclusion criteria
Population	*KQ1:* Children or adults *KQ2–3:* Children or adults who have experienced a human (including in utero) death of someone close to them or will do so in the near future (e.g., in a hospice setting) and who are at risk of being diagnosed with a grief disorder. *KQ4:* Children or adults diagnosed with a grief disorder (prolonged grief disorder, complicated grief, chronic grief disorder, persistent complex bereavement disorder) according to DSM (prolonged grief disorder) or ICD (ICD11 6B42, ICD10 F43.81, ICD9 309.0).	Studies on other forms than personal grief, such as community expressions of grief, public reactions to loss or trauma.
Interventions	*KQ1:* Screening strategy evaluation with screening tool *KQ2:* Diagnostic strategy evaluation, diagnostic or screening tool *KQ3:* Interventions to prevent or treat grief disorder *KQ4:* Interventions to treat grief disorders	*KQ1:* Incidental or non-systematic identification of grief or reaction to loss. *KQ3:–4:* Interventions delivered by lay persons or non-healthcare professionals not applicable to a healthcare setting.
Comparators	*KQ1:* No screening approach, usual care, or an alternative screening approach. *KQ2:* No tool, an alternative tool, concordance with grief disorder diagnosis. *KQ3:* No intervention, usual care, or an alternative intervention *KQ4:* Usual care or an alternative intervention	*KQ1:* No reference standard or method to detect the impact of screening. *KQ2:* No reference standard to determine the accuracy of the diagnostic tool. *KQ3:–4:* No concurrent comparator.
Outcomes	*KQ1:* Immediate experience (patient experience, medicalizing grief, abnormalizing grief, feeling of pathologizing a normal process), screening accuracy (e.g., correctly diagnosed with grief disorder), and impact (e.g., delayed diagnosis, underdiagnosis, overdiagnosis, delayed treatment, undertreatment due to missed diagnosis, overtreatment). *KQ2:* Diagnostic accuracy (e.g., sensitivity, specificity, accuracy, area under the curve, positive predictive value, negative predictive value, false positives, false negatives, grief disorder identification) or impact (e.g., delayed diagnosis, underdiagnosis, overdiagnosis, effects of false positive test results, delayed treatment, undertreatment due to missed diagnosis, overtreatment). *KQ3:* Grief symptoms, incidence of grief disorder, severity of grief disorder, any adverse events or unintended consequences of the intervention. *KQ4:* Grief symptoms, resolution of grief disorder diagnosis, physical or mental health, quality of life, functional status, patient experience, costs, any adverse events or unintended consequences of the intervention.	Clinician or organizational barriers to, opinions on, preferences to, or uptake of screening, diagnosing, or treatment of grief.
Timing	Any, no restrictions regarding the timing of the intervention or follow up.	
Setting	Any setting.	
Study Design	*KQ1:–2:* Screening and diagnosis impact analyses and diagnostic accuracy studies. *KQ3:–4:* Randomized controlled trials (RCTs), clinical trials comparing two or more interventions, observational cohort studies comparing two or more intervention cohorts, controlled post-only studies, and case-control studies.	*KQ1:–2:* Descriptions without information on the impact or accuracy of the screening approach or tool performance. *KQ3:–4:* Studies without control group or concurrent group that does not receive the intervention or that receives a different intervention.
Other limiters	Data published in English-language journal manuscript or trial records; relevant literature reviews will be retained for reference mining.	Data only reported in abbreviated format (e.g., conference abstracts) and/or data only reported in non-English outlets.

Notes: DSM Diagnostic and Statistical Manual of Mental Disorders, ICD international classification of diseases, KQ key question.

Dated: December 7, 2023.

Marquita Cullom,

Associate Director.

[FR Doc. 2023–27238 Filed 12–11–23; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, Office of Readiness and Response

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with regulatory provisions, the Centers for Disease Control and Prevention (CDC) announces the following meeting for the Board of Scientific Counselors, Office of Readiness and Response (BSC, ORR). This virtual meeting is open to the public, limited only by the number of web conference lines available (500 lines). Registration in advance is required by accessing the link below in the addresses section. Time will be available for public comment.

DATES: The meeting will be held on January 25, 2024, from 9 a.m. to 4:30 p.m., EST, and January 26, 2024, from 9 a.m. to 12 p.m., EST.

ADDRESSES: Zoom virtual meeting. If you wish to attend the meeting, please register in advance by accessing the link at *https://cdc.zoomgov.com/webinar/register/WN_OHYkxlt_QNyys3kLsfQ3Wg#/registration.* Instructions to access the meeting will be provided following registration.

FOR FURTHER INFORMATION CONTACT: Dometa Ouisley, Public Health Analyst, Office of Science and Laboratory Readiness, Office of Readiness and Response, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop H21–6, Atlanta, Georgia 30329–4027. Telephone: (404) 639–7450; Email: *DOuisley@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: The Board of Scientific Counselors, Office of Readiness and Response provides advice and guidance to the Secretary, Department of Health and Human Services (HHS); the Assistant Secretary for Health, HHS; the Director, Centers for Disease Control and Prevention (CDC); and the Director, Office of Readiness and Response (ORR), CDC. The Board recommends strategies and goals for readiness and response activities pertaining to programs and research within the agency and the ORR divisions and monitors the overall strategic direction and focus of the ORR divisions and offices. The Board also provides administration and oversight of peer review for ORR scientific programs. For additional information about the Board, please visit *https://www.cdc.gov/orr/bsc/index.htm.*

Matters to be Considered: Agenda topics for Day 1 will include: (1) Organizational Update, (2) Division of Readiness and Response Science Overview, (3) Division Directors Updates, and (4) Discussion: Growing Science and Science Strategies. Agenda topics for Day 2 will include: (1) Polio Containment Working Group Updates, (2) Health Equity Working Group Updates, and (3) Discussion: Improving Readiness for Future Threats. Agenda items are subject to change as priorities dictate.

The Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2023–27170 Filed 12–11–23; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; 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: Center for Scientific Review Special Emphasis Panel; Topics in Structural Biophysics.

Date: December 20, 2023.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Dennis Pantazatos, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–2381, *dennis.pantazatos@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. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: December 7, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–27198 Filed 12–11–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; 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 on Drug Abuse Initial Review Group Career Development Education and Training Study Section.

Date: February 23, 2024.

Time: 9:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sindhu Kizhakke Madathil, Ph.D., Scientific Review Officer,

Division of Extramural Research, Scientific Review Branch, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892 (301) 827–5702 *sindhu.kizhakkemadathil@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: December 6, 2023.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–27167 Filed 12–11–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2010–0164]

National Boating Safety Advisory Committee; January 2024 Virtual Meeting

AGENCY: United States Coast Guard, Department of Homeland Security.

ACTION: Notice of open Federal advisory committee virtual meeting.

SUMMARY: The National Boating Safety Advisory Committee (Committee) and its Subcommittees will meet virtually to discuss matters relating to national boating safety. The virtual meeting will be open to the public.

DATES:

Meeting: The Committee and its Subcommittees will meet on Wednesday, January 17, 2024, from noon until 4 p.m. Eastern Standard Time (EST). This virtual meeting may adjourn early if the Committee has completed its business.

Comments and supporting documentation: To ensure your comments are received by Committee members before the virtual meeting, submit your written comments no later than January 11, 2024.

ADDRESSES: To join the virtual meeting or to request special accommodations, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section no later than 1 p.m. EST on January 11, 2024. The number of virtual lines are limited and will be available on a first-come, first-served basis.

Pre-registration information: Pre-registration is required for attending virtual meeting. You must request attendance by contacting the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. You will receive a response with attendance instructions.

The National Boating Safety Advisory Committee is committed to ensuring all participants have equal access regardless of disability status. If you require reasonable accommodation due to a disability to fully participate, please email Mr. Thomas Guess at *NBSAC@uscg.mil* or call (206) 815–0221 as soon as possible.

Instructions: You are free to submit comments at any time, including orally at the virtual meeting as time permits, but if you want Committee members to review your comments before the meeting, please submit your comments no later than January 11, 2024. We are particularly interested in comments on the topics in the ''Agenda'' section below. 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–2010–0164 in the search box and click ''Search''. Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If your material cannot be submitted using *https://www.regulations.gov,* contact the individual in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. You must include the docket number USCG–2010–0164. Comments received will be posted without alteration at *https://www.regulations.gov,* including any personal information provided. You may wish to review the Privacy and Security Notice found via a link on the homepage of *https://www.regulations.gov.* For more about about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). If you encounter technical difficulties with comment submission, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Docket Search: Documents mentioned in this notice as being available in the docket, and all public comments, will be in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Guess, Alternate Designated Federal Officer of the National Boating Safety Advisory Committee, 2703 Martin Luther King Jr. Ave SE, Stop 7509, Washington, DC 20593–7509, telephone (206) 815–0221 or via email at *NBSAC@uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is in compliance with the *Federal Advisory Committee Act* (Pub. L. 117–286, 5 U.S.C., ch. 10). The Committee was established on December 4, 2018, by section 601 of the *Frank LoBiondo Coast Guard Authorization Act of 2018,* (Pub. L. 115–282, 132 Stat. 4192), and is codified in 46 U.S.C. 15105. The Committee operates under the provisions of the *Federal Advisory Committee Act* and 46 U.S.C. 15109. The National Boating Safety Advisory Committee provides advice and recommendations to the Secretary of Homeland Security via the Commandant of the United States Coast Guard on matters relating to national boating safety. This notice is issued under the authority of 46 U.S.C. 15109(a).

Agenda

The agenda for the National Boating Safety Advisory Committee meeting is as follows:

(1) Call to Order.
(2) Roll call of Committee members and determination of quorum.
(3) Opening Remarks.
(4) Conflict of Interest Statement.
(5) Receipt and discussion of the following reports from the Office of Auxiliary and Boating Safety:
  a. Review of Recommendations Dashboard
  b. Review of Strategic Plan Dashboard
  c. Review of Task Statements Dashboard
  d. Review of Data Analysis Dashboard
  e. Update on National Recreational Boating Safety Survey
  f. Update on UCOTA–V implementation and Titling and VIS States
  g. Update on Grant Summaries
  h. Update on Social Media Calendar
  i. Update on Notice of Funding Opportunity (NOFO)
(6) Whale Protection Rules.
(7) Public Comment Period.
(8) Subcommittee Updates.
(9) Next meeting planning.
(10) Meeting Adjournment.

A copy of all meeting documentation will be available at *https://homeport.uscg.mil/Lists/Content/DispForm.aspx?ID=75937&Source=/Lists/Content/DispForm.aspx?ID=75937,* no later than January 16, 2024. Alternatively, you may contact Mr. Thomas Guess as noted in the **FOR FURTHER INFORMATION CONTACT** section above.

There will be a public comment period from approximately 3 p.m. until 3:15 p.m. (EST). Speakers are requested to limit their comments to 3 minutes. Please note that the public comment period may end before the period allotted, following the last call for comments. Please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section above to register as a speaker.

Dated: December 6, 2023.

Amy M. Beach,

Captain, U.S. Coast Guard, Director of Inspections and Compliance.

[FR Doc. 2023–27169 Filed 12–11–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2023–0034; OMB No. 1660–NW172]

Agency Information Collection Activities: Proposed Collection; Comment Request; Generic Clearance for FEMA's Preparedness Grant Programs

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: 60-Day notice of new collection and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on a new information collection. In accordance with the Paperwork Reduction Act of 1995 (PRA), this notice seeks comments concerning a new generic collection to oversee FEMA's Office of Grants Administration programmatic and financial stewardship of non-disaster grant awards.

DATES: Comments must be submitted on or before February 12, 2024.

ADDRESSES: To avoid duplicate submissions to the docket, please submit comments at *www.regulations.gov* under Docket ID FEMA–2023–0034. Follow the instructions for submitting comments.

All submissions received must include the agency name and Docket ID.

Regardless of the method used for submitting comments or material, 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 read the Privacy and Security Notice that is available via a link on the homepage of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Amy Bulgrien, Senior Advisor, FEMA, Office of Grants Administration at *amy.bulgrien@fema.dhs.gov* and 202–880–7522. You may contact the Information Management Division for copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: FEMA's Office of Grants Administration was created to oversee the programmatic management, financial management and administration of non-disaster grants. These programs help make the country more resilient and support the Nation's needs before, during, and after disasters. Non-disaster grants also help develop and sustain capabilities at the state, local, Tribal, and territorial levels to mitigate, prevent, protect against, respond to, and recover from terrorism or other high-consequence disasters and emergencies. The instruments in this collection are required to apply for FEMA funds and the data collected through these instruments is used by FEMA to evaluate grant applications, assess applicant risk, monitor awards for compliance, and comply with Federal laws and regulations. OGA manages and ensures accountability of FEMA preparedness grant programs under sections 430, 503(b)(2)(G), 504(a)(12), 2021–2023, and 2220–A of the Homeland Security Act of 2002. OGA programmatically manages and financially administers certain non-disaster and preparedness grants and conduct environmental planning and historic preservation activities for these grants, including homeland security and preparedness grants (including statutory authority for certain waivers) pursuant to titles V, XVIII, and XX of the Homeland Security Act of 2002; section 503(b)(2)(B), (G), and (H) of the Homeland Security Act of 2002 (6 U.S.C. 313(b)(2)(B), (G), and (H)); section 1809 of the Homeland Security Act of 2002 (6 U.S.C. 579); titles XIV and XV of the Implementing Recommendations of the 9/11 Commission Act of 2007; 46 U.S.C. 70107; sections 635 and 662 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 723 and 762); title VI of the Stafford Act, as amended; Reorganization Plan No. 3 of 1978, 5 U.S.C. app.; sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2229, 2229a); section 3006 of the Deficit Reduction Act of 2005, as amended; section 204 of the REAL ID Act of 2005; the Coronavirus Aid, Relief, and Economic Security Act, Div. B (Pub. L. 116–136); and grant programs authorized in annual appropriations acts or future preparedness grant program authorities.

FEMA's Office of Grants Administration is submitting this request for a generic collection to streamline integration of stakeholder feedback on instruments. This collection will ensure all Office of Management and Budget (OMB) control number expiration dates are aligned across the OGA portfolio.

Collection of Information

Title: Generic Clearance for FEMA's Preparedness Grant Programs.

Type of Information Collection: New Collection.

OMB Number: 1660–NW172.

FEMA Forms: Not Applicable.

Abstract: FEMA's Office of Grants Administration was created to oversee the programmatic management, financial management, and administration of non-disaster grants. Non-disaster grant programs help make the country more resilient and support the nation's needs before, during, and after disasters. Non-disaster grants help develop and sustain capabilities at the state and local, tribal, and territorial levels to mitigate, prevent, protect against, respond to, and recover from terrorism or other high-consequence disasters and emergencies. Instruments in this collection are required to apply for FEMA funds; data collected via the instruments is used by FEMA to evaluate grant applications, assess applicant risk, monitor awards for compliance, and comply with Federal laws and regulations.

Affected Public: State, Local or Tribal Government; Businesses or other For-profits; Not-for Profit institutions.

Estimated Number of Respondents: 35,552.

Estimated Number of Responses: 55,244.

Estimated Total Annual Burden Hours: 1,737,291.

Estimated Total Annual Respondent Cost: $100,067,963.

Estimated Respondents' Operation and Maintenance Costs: $0.

Estimated Respondents' Capital and Start-Up Costs: $0.

Estimated Total Annual Cost to the Federal Government: $3,090,494.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the Agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Millicent Brown Wilson,

Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2023–27196 Filed 12–11–23; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Agency Information Collection Activities: ReadySetCyber Initiative Questionnaire

AGENCY: Cybersecurity and Infrastructure Security Agency (CISA), Department of Homeland Security (DHS).

ACTION: 30-Day notice and request for comments; request for a new OMB control number, 1670–NEW.

SUMMARY: The Cyber Security Division's Vulnerability Management Sub-Division within Cybersecurity and Infrastructure Security Agency (CISA) will submit the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance. CISA previously published this information collection request in the **Federal Register** on August 10, 2023 for a 60-day public comment period. 0 comments were received by CISA. The purpose of this notice is to allow additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until January 11, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

The Office of Management and Budget is particularly interested in comments which:

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 submissions of responses.

FOR FURTHER INFORMATION CONTACT: Mark Robinson, 202–740–6114, *mark.robinson@hq.dhs.gov.*

SUPPLEMENTARY INFORMATION: Consistent with CISA's authorities to ''carry out comprehensive assessments of the vulnerabilities of the key resources and critical infrastructure of the United States'' at 6 U.S.C. 652(e)(1)(B) and provide Federal and non-Federal entities with ''operational and timely technical assistance'' at 6 U.S.C. 659(c)(6) and ''recommendation on security and resilience measures'' at 6 U.S.C. 659(c)(7), CSD VM's ReadySetCyber initiative will collect information in order to provide tailored technical assistance, services and resources to critical infrastructure organizations from all 16 critical infrastructure sectors based on the maturity of their respective cybersecurity programs.

CISA seeks to collect this information from US critical infrastructure organizations on a strictly voluntary and fully electronic basis so that each organization can be best supported in meeting the CISA Cybersecurity Performance Goals. The CISA Cybersecurity Performance Goals are a set of 38 voluntary controls which aim to reduce the risk of cybersecurity threats to critical infrastructure.

CISA offers a number of services and resources to aid critical infrastructure organizations in adopting the Cybersecurity Performance Goals and seeks to make discovery of the appropriate services and resources as easy as possible, especially for organizations that many have cybersecurity programs at low levels of capability. For example, an organization that is unsure of its ability to enumerate all its assets with Internet Protocol addresses can leverage CISA's highly scalable vulnerability scanning service to discover additional assets within its network range that may have been previously unknown. Organizations with more mature cybersecurity programs who wish to evaluate their network segmentation controls will be better positioned to take advantage of CISA's more resource-intensive architecture assessments.

To measure adoption of the Cybersecurity Performance Goals and assist organizations in finding the best possible services and resources for their cybersecurity programs, CISA is seeking to establish a voluntary information collection that uses respondents' answers to tailor a package of services and resources most applicable for their level of program maturity.

Without collecting this information, CSD VM will be unable to tailor an appropriate suite of services, recommendations, and resources to assist that organization in protecting itself against cybersecurity threats, thereby creating burdens of inefficiency for service requesters and CSD VM alike. In addition, this information is critical to CSD VM's ability to measure the adoption of CISA's Cybersecurity Performance Goals by critical infrastructure organizations and assess the maturity of critical infrastructure organizations' cybersecurity programs.

The information to be collected includes: Identity and access management, device configuration and security, date security, governance and training, vulnerability management, supply chain risk management, and incident response.

The Office of Management and Budget is particularly interested in comments which:

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 submissions of responses.

Analysis

Agency: Cybersecurity and Infrastructure Security Agency (CISA), Department of Homeland Security (DHS).

Title: ReadySetCyber.

OMB Number: 1670–NEW.

Frequency: Upon each voluntary request for technical assistance, which CISA expects to occur on an annual basis.

Affected Public: Critical Infrastructure Owners & Operators seeking CISA services.

Number of Respondents: Approximately 2,000 per year.

Estimated Time per Respondent: 20 minutes.

Total Burden Hours: 667 hours.

Annualized Respondent Cost: $59,663.60.

Total Annualized Respondent Out-of-Pocket Cost: $0.00.

Total Annualized Government Cost: $0.

Robert J. Costello,

Chief Information Officer, Department of Homeland Security, Cybersecurity and Infrastructure Security Agency.

[FR Doc. 2023–27216 Filed 12–11–23; 8:45 am]

BILLING CODE 9110–9P–P

INTER-AMERICAN FOUNDATION

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 88 FR 84348 (December 5, 2023).

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: December 11, 2023, 1:30 p.m. EST.

CHANGES IN THE MEETING: This meeting has been cancelled.

CONTACT PERSON FOR MORE INFORMATION: Nicole Stinson, Associate General Counsel, (202) 683–7117 or *nstinson@iaf.gov.*

(Authority: 5 U.S.C. 552b.)

Dated: December 8, 2023.

Natalia Mandrus,

Associate General Counsel.

[FR Doc. 2023–27359 Filed 12–8–23; 4:15 pm]

BILLING CODE 7025–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_OR_FRN_MO 4500176276]

Public Meetings for the John Day–Snake Resource Advisory Council, Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

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's (BLM's) John Day–Snake Resource Advisory Council (RAC) will meet as follows.

DATES: The John Day–Snake RAC Planning Subcommittee will meet from 6 p.m. to 8 p.m. Pacific time (PT) on Wednesday, January 31, 2024, via the Zoom for Government platform. The full John Day–Snake RAC will meet Wednesday and Thursday, February 28–29, 2024, at the Hotel Condon in Condon, Oregon. The February 28 meeting will be from 9 a.m. to 4:30 p.m. PT and the February 29 meeting will be from 9 a.m. to noon PT in person in Condon, Oregon, with a virtual participation option available.

Thirty-minute public comment periods will be offered at 7:15 p.m. PT on Wednesday, January 31; at 4 p.m. PT on Thursday, February 28; and at 11:30 a.m. PT on Friday, February 29.

ADDRESSES: Final agendas for each meeting and contact information regarding Zoom participation details will be published on the RAC's web page at least 10 days in advance at *https://www.blm.gov/get-involved/resource-advisory-council/near-you/oregon-washington/john-day-rac.*

Comments to the RAC can be mailed to: BLM Vale District; Attn. Shane DeForest, 100 Oregon St., Vale, OR 97918 or emailed to *sdefores@blm.gov.*

FOR FURTHER INFORMATION CONTACT: Larisa Bogardus, Public Affairs Specialist, 3100 H. St., Baker City, OR 97814; telephone: 541–523–1407; email: *lbogardus@blm.gov.* Individuals in the United States who are deaf, blind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their countries to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The 15-member John Day–Snake RAC was chartered and appointed by the Secretary of the Interior. Diverse perspectives in the RAC are represented by commodity, conservation, and local interests. The RAC provides advice to BLM and U.S. Forest Service resource managers regarding management plans and proposed resource actions on public lands in the John Day–Snake area. All meetings are open to the public in their entirety. Information to be distributed to the RAC must be provided to its members prior to the start of each meeting.

The January 31 Subcommittee meeting will focus on compiling information and drafting recommendations for consideration and presentation to the full RAC regarding a proposed business plan and fee proposal for the BLM's Prineville District Barr North Campground. Agenda items for the February meeting will include recommendations on the Barr North Campground business plan and related recreation fees. Standing agenda items include management of energy and minerals, timber, rangeland and grazing, commercial and dispersed recreation, wildland fire and fuels, and wild horses and burro management by the Vale or Prineville BLM Districts and the Wallowa-Whitman, Umatilla, Malheur, Ochoco, and Deschutes National Forests; and any other business that may reasonably come before the RAC. The Designated Federal Officer will attend the meeting, take minutes, and publish the minutes on the RAC web page at *https://www.blm.gov/get-involved/resource-advisory-council/near-you/oregon-washington/john-day-rac.*

The public may send written comments to the subcommittee and RAC in response to material presented (see **ADDRESSES**).

Please make requests in advance for sign language interpreter services, assistive listening devices, or other reasonable accommodations. We ask that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice at least seven (7) business days prior to the meeting to allow for sufficient time to process the request. All reasonable accommodation requests are managed on a case-by-case basis.

Before including your address, phone number, email address, or other personal identifying information in your comments, please 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 we will be able to do so.

(Authority: 43 CFR 1784.4–2)

Shane DeForest,

Vale District Manager.

[FR Doc. 2023–27190 Filed 12–11–23; 8:45 am]

BILLING CODE 4331–24–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–SERO–CONG–NPS0035319; PPSESEROC3, PPMPSAS1Y.YP0000]

Determination of Eligibility for Consideration as Wilderness Areas, Congaree National Park

AGENCY: National Park Service, Interior.

ACTION: Notice of determination of wilderness eligibility for lands in Congaree National Park.

SUMMARY: Pursuant to the Wilderness Act of 1964 and in accordance with National Park Service (NPS) Management Policies 2006, Section 6.2.1, the NPS has completed a Wilderness Eligibility Assessment to determine if lands added to Congaree National Park since 1988 (Addition Lands) meet the criteria indicating eligibility for preservation as wilderness. Based on this assessment, the NPS has concluded that of the 5,356 acres of Addition Lands assessed, 3,937 acres meet the eligibility criteria in the Wilderness Act of 1964 and NPS Management Policies 2006 (6.2.1 and 6.2.1.1). This notice is being furnished as required by NPS Management Policies 2006, Section 6.2.1.3.

ADDRESSES: Maps and descriptions of the eligible lands are on file at Congaree National Park Headquarters, 100 National Park Road, Hopkins, South Carolina 29061.

FOR FURTHER INFORMATION CONTACT: Requests for further information should be directed to Congaree National Park Superintendent Gregory A. Hauburger by phone at 803–647–3983, via email at *greg_hauburger@nps.gov,* or by mail at Congaree National Park, 100 National Park Road, Hopkins, South Carolina 29061.

SUPPLEMENTARY INFORMATION: Since 1988, the exterior boundary of Congaree National Park has been expanded three times: once legislatively, and twice administratively via minor boundary modifications. See Public Law 108–108 (November 10, 2003) and notices of minor boundary revisions published at 83 FR 12203 (March 20, 2018) and 86 FR 6364 (January 21, 2021). Congaree National Park staff analyzed all 5,356 acres added to the park since 1988 (the Addition Lands) for wilderness eligibility. Determinations of eligibility were made by applying the wilderness criteria in the Wilderness Act of 1964, as well as the primary eligibility criteria in NPS Management Policies 2006 Section 6.2.1.1 and the additional considerations for determining eligibility found at Section 6.2.1.2. This analysis was completed using the best available data on existing conditions within the Addition Lands. The team that assessed existing conditions was made up of park and regional staff having extensive knowledge of the area. Of the 5,356 acres assessed, 3,937 acres were found to meet the eligibility criteria.

The area found eligible for wilderness designation consists of approximately 1,211 acres in the park lying between the Norfolk Southern rail line on the west and the U.S. Highway 601 right-of-way on the east. An additional 2,715 acres of eligible land extends farther eastward from the U.S. Highway 601 right-of-way to the park boundary on the Wateree River. One small, isolated tract of 10.89 acres (per deed) fronts on the Congaree River west of the Norfolk Southern rail line. The latter tract is bordered on three sides by designated wilderness.

Public notice announcing the park's intention to conduct the eligibility assessment was made by placing a Notice in the **Federal Register** on January 19, 2016 (81 FR 2902) and, more recently, via the park's website, social media, and direct contact with interested Tribes, groups, and individual citizens.

Charles F. Sams, III,

Director, National Park Service.

[FR Doc. 2023–27202 Filed 12–11–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–37069; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before December 2, 2023, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by December 27, 2023.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on <property or proposed district name, (County) State>.'' If you have no access to email, you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Sherry A. Frear, Chief, National Register of Historic Places/National Historic Landmarks Program, 1849 C Street NW, MS 7228, Washington, DC 20240, *sherry_frear@nps.gov,* 202–913–3763.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before December 2, 2023. Pursuant to section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

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.

Nominations submitted by State or Tribal Historic Preservation Officers.

Key: State, County, Property Name, Multiple Name (if applicable), Address/Boundary, City, Vicinity, Reference Number.

CALIFORNIA

San Francisco County

Western Manufacturing Company Building, 149 9th Street, San Francisco, SG100009717

Sierra County

Sierra City School, 418 Main Street (California Route 49), Sierra City, SG100009718

KENTUCKY

Christian County

St. Elmo School, 12225 Bradshaw Road, Pembroke, SG100009724

Franklin County

Green Hill Missionary Baptist Church, 127 Greenhill Avenue, Frankfort, SG100009725

Jefferson County

John G. Epping Bottling Works, 702, 708, 712, and 718 Logan Street, Louisville, SG100009726

Martin County

Inez Deposit Bank, 25 Main Street, Inez, SG100009727

Muhlenberg County

Taylor, Edward, House, 215 East Main Cross Street, Greenville, SG100009728

Perry County

Memorial Gym, 491 L.O. Davis Drive, Hazard, SG100009729

Russell County

H.M. Smith General Merchandise and Fonthill Post Office, 279 South KY SR 76, Fonthill, SG100009730

Trigg County

Smith, George and Nellie White, House, 11 Jefferson Street, Cadiz, SG100009731

MINNESOTA

Hennepin County

District No. 99 School, 10980 West River Road, Champlin, SG100009722

MISSISSIPPI

Warren County

Gilland-Hudon House, 1810 Cherry Street, Vicksburg, SG100009721

OHIO

Cuyahoga County

Euclid Avenue Temple/Liberty Hill Baptist Church, (Twentieth-Century African American Civil Rights Movement in Ohio MPS), 8206 Euclid Avenue, Cleveland, MP100009713

Seneca County

Camp Pittenger Historic District, 8877 S Township Road 131, McCutchenville vicinity, SG100009723

VIRGINIA

Norfolk Independent City

Granby Street Suburban Institutional Corridor, Granby Street, Newport Avenue, Seekel Street, Thole Street, Norfolk, SG100009735

WISCONSIN

Walworth County

Adkins, Henry D. L. and Jennie, House, 24 North Church Street, Elkhorn, SG100009715

A request for removal has been made for the following resource(s):

GEORGIA

Burke County

Haven Memorial Methodist Episcopal Church, Barron St., S of Jct. of Barron and 6th Sts., Waynesboro, OT96000397

Additional documentation has been received for the following resource(s):

ALABAMA

Barbour County

Lore, Seth and Irwinton Historic District (Boundary Increase), Roughly bounded by Browder St., Van Buren Ave., Washington St., and Sanford Ave., Eufaula, AD86001534

ARIZONA

Pima County

Winterhaven Historic District (Additional Documentation), 2911 East Farr Street, Tucson, AD05001466

DISTRICT OF COLUMBIA

District of Columbia

Terrell, Mary Church, House (Additional Documentation), 326 T St. NW, Washington, AD75002055

NORTH CAROLINA

Craven County

New Bern Historic District (Boundary Increase) (Additional Documentation), Roughly 2 blks of N Craven, blk on Pasteur St., roughly along Bern, West, Cedar Sts. and Trent Court, New Bern, AD03000965

VIRGINIA

Petersburg Independent City

Pocahontas Island Historic District, Pocahontas, Witten, Rolfe, Logan, and Sapony Sts., Petersburg (Independent City), AD06000977

Authority: Section 60.13 of 36 CFR part 60.

Sherry A. Frear,

Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2023–27180 Filed 12–11–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2023–0062]

Atlantic Wind Lease Sale 10 for Commercial Leasing for Wind Power Development on the U.S. States Central Atlantic Outer Continental Shelf—Proposed Sale Notice

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Proposed sale notice; request for comments.

SUMMARY: The Bureau of Ocean Energy Management (BOEM) proposes to hold Atlantic Wind Lease Sale 10 and offer one or more lease areas (Lease Areas) for commercial wind power development on the U.S. Central Atlantic Outer Continental Shelf (OCS). The Lease Areas are located in the previously identified wind energy areas (WEAs) A–2 and C–1 offshore the State of Delaware and the Commonwealth of Virginia. This proposed sale notice (PSN) contains information pertaining to the areas available for leasing, certain lease provisions and conditions, auction details, criteria for evaluating competing bids, and procedures for lease award, appeals, and lease execution. BOEM proposes a multiple factor bidding format using a simultaneous clock auction. BOEM will use new auction software for the lease sale, with attendant and minor changes in the auction rules used in previous OCS wind lease auctions. Any lease resulting from this sale does not constitute approval of any offshore wind energy facilities. Lessees must first submit project-specific plans to BOEM and obtain BOEM's approval before they may start any construction of an OCS wind energy facility. BOEM will subject such plans to environmental, technical, and public reviews prior to deciding whether the proposed development should be authorized.

DATES: BOEM must receive your comments no later than February 12, 2024.

For prospective bidders who want to participate in this lease sale, unless you have received confirmation from BOEM that you are qualified to participate in the Central Atlantic auction, BOEM must receive your qualification materials no later than February 12, 2024 and, prior to the auction, BOEM must confirm your qualification to bid in the auction.

ADDRESSES: You may send comments in any of the following ways:

- *Electronically:* Visit *https://www.regulations.gov.* In the entry entitled, ''Enter Keyword or ID,'' enter [BOEM–2023–0062] then click ''search.'' Follow the instructions to submit comments.
- *Mail or delivery service:* Enclose comment in an envelope labeled, ''Comments on Central Atlantic Wind Lease Sale PSN'' and send to: Bridgette Duplantis, Bureau of Ocean Energy Management, Office of Renewable Energy Programs, 45600 Woodland Road, VAM–OREP, Sterling, Virginia 20166.
- *For prospective bidders who want to participate in this lease sale:* Submit your qualification materials in an envelope labeled, ''Qualification Materials for Central Atlantic Wind Energy Lease Sale'' to Bureau of Ocean Energy Management, Office of Renewable Energy Programs, 45600 Woodland Road, VAM–OREP, Sterling, Virginia 20166 or electronically to *renewableenergy@boem.gov.*

For more information about submitting comments, see Sections XX, ''Public Participation,'' and XXI, ''Protection of Privileged and Confidential Information,'' under the **SUPPLEMENTARY INFORMATION** caption below.

FOR FURTHER INFORMATION CONTACT: Bridgette Duplantis, Bureau of Ocean Energy Management, *bridgette.duplantis@boem.gov* or (504) 736–7502.

SUPPLEMENTARY INFORMATION:

I. Background

a. *Call for Information and Nominations:* On April 29, 2022, BOEM published the ''Call for Information and Nominations-Commercial Leasing for Wind Power Development on the Central Atlantic Outer Continental Shelf'' (Call). The Call consisted of six areas labelled A–F. BOEM received 66 comments from the general public; Federal, State, and local agencies; the fishing industry; industry groups; developers; non-governmental organizations (NGOs); universities; and other stakeholders. Comments can be viewed at *https://www.regulations.gov/document/BOEM-2022-0023-0001/comment.* Three developers nominated areas for a commercial wind energy lease within the Call Area.

b. *Area Identification:* After modifying the Area Identification (Area ID) process in a Notice to Stakeholders, which is available at *https://www.boem.gov/newsroom/notes-stakeholders/boem-enhances-its-processes-identify-future-offshore-wind-energy-areas,* BOEM used this process to support identification of Draft WEAs in the Central Atlantic. After the close of the Call comment period on June 28, 2022, BOEM initiated the Area ID process by reviewing the input received on the Call. BOEM and the National Oceanic and Atmospheric Administration's National Centers for Coastal Ocean Science (NCCOS) Team used an ocean planning tool to identify the eight Draft WEAs on the U.S. Central Atlantic OCS using the methodology outlined in the BOEM and NCCOS Draft Report: Development of the Central Atlantic Wind Energy Areas, which can be found at *https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/BOEM_NCCOS_JointReport_DraftWEAs.pdf.*

On November 16, 2022, BOEM opened a 30-day public comment period on eight draft WEAs on the OCS offshore the U.S. Central Atlantic coast, covering approximately 1.7 million acres. BOEM considered the following non-exclusive information sources when identifying the draft WEAs: comments and nominations received on the Call; information from the Central Atlantic Intergovernmental Renewable Energy Task Force; input from Delaware, Maryland, Virginia, and North Carolina State agencies; input from Federal agencies; comments from stakeholders and ocean users, including the maritime community, offshore wind developers, and the commercial and recreational fishing industry; state and local renewable energy goals; and information on domestic and global offshore wind market and technological trends. BOEM's draft WEA recommendations did not reflect a final assessment from the Department of Defense (DOD) regarding compatibility of the draft WEAs with DOD needs.

After the close of the draft WEA comment period on December 16, 2022, BOEM finalized the Area ID process after reviewing the input received from all stakeholders mentioned above and the DOD assessment. BOEM announced the final WEAs on July 31, 2023, by designating three WEAs within the Call Area. The first WEA (A–2) is 101,767 acres and located approximately 26 nautical miles (nm) from Delaware Bay. The second WEA (B–1) is 78,285 acres and located 23.5 nm offshore Ocean City, Maryland. The third WEA (C–1) is 176,506 acres and located approximately 35 nm from the mouth of the Chesapeake Bay. The final WEAs comprise 356,558 acres and would support approximately 4.3–8.1 GW of energy production if fully developed. BOEM, DOD (the Departments of the Air Force and Navy), and the National Aeronautics and Space Administration (NASA) agreed to undertake an in-depth review of WEA B–1 to determine if the impacts to military and NASA operations could be acceptable and/or mitigated. The Central Atlantic Area Identification process and documentation can be found at *https://www.boem.gov/renewable-energy/state-activities/central-atlantic.*

c. *Environmental Reviews:* On August 1, 2023, BOEM published a notice of intent to prepare an environmental assessment (EA) to consider potential environmental consequences of site characterization activities (*e.g.,* biological, archaeological, geological, and geophysical surveys and core samples) and site assessment activities (*e.g.,* installation of meteorological buoys) that are expected to take place after issuance of wind energy leases in the Call Area. When scoping the EA, BOEM sought comments on the issues and alternatives that should inform the EA. BOEM received 104 comment submissions, which can be found at *https://www.regulations.gov* under Docket No. BOEM–2023–0034. In addition to the preparation of the Draft EA, including compliance with threatened and endangered species requirements for certain data collection activities associated with OCS leasing (*https://www.boem.gov/sites/default/files/documents/renewable-energy/OSW-surveys-NLAA-programmatic.pdf*), BOEM has initiated other required consultations under the Endangered Species Act, the Magnuson-Stevens Fishery Conservation and Management Act, and the Coastal Zone Management Act. The EA and associated consultations will inform BOEM's decision whether to proceed with the final sale notice (FSN). BOEM will solicit comments on the EA before it is finalized. BOEM will conduct additional environmental reviews upon receipt of a lessee's Construction and Operations Plan (COP) if the proposed leases reach that stage of development.

II. Areas Proposed for Leasing

BOEM proposes two areas for leasing. Lease Area A–2, OCS–A 0557, which consists of 101,443 acres and is approximately 26.4 nm from Delaware Bay; and Lease Area C–1, OCS–A 0558, which consists of 176,505 acres and is approximately 35 nm from the mouth of the Chesapeake Bay.

Lease area name	Lease area ID	Acres
A–2	OCS–A 0557	101,443
C–1	OCS–A 0558	176,505
Total		277,948

Descriptions of the proposed Lease Areas can be found in Addendum A of the proposed leases, which can be found on BOEM's website at: *https://www.boem.gov/renewable-energy/state-activities/central-atlantic.* As described

in Section I (b), the Federal team consisting of BOEM, DOD, and NASA reviewed the constraints associated with Area B–1, and conducted an analysis of the mitigations that would be necessary to keep that Area viable during an initial Central Atlantic offshore wind sale. The team identified the magnitude and cost of collective mitigation needed to accommodate offshore wind construction and operations in this area. After this review, BOEM decided to remove WEA B–1 from consideration as part of the upcoming Central Atlantic lease sale due to the significant costs and mitigation that would be required.

a. *Map of the Area Proposed for Leasing:* A map of the Lease Areas, and GIS spatial files X, Y (eastings, northings) UTM Zone 18, NAD83 Datum, and geographic X, Y (longitude, latitude), NAD83 Datum can be found on BOEM's website at: *https://www.boem.gov/renewable-energy/state-activities/central-atlantic.*

b. *Potential Future Restrictions to Ensure Navigational Safety:* Potential bidders are advised that portions of the Lease Areas may not be available for future development (*i.e.,* installation of wind energy facilities) because of navigational safety concerns. BOEM may require additional mitigation measures at the COP stage when the lessee's site-specific navigational safety risk assessment is available to inform BOEM's decision-making.

c. *Potential Future Restrictions to Mitigate Potential Conflicts with Department of Defense Activities:* Those interested in bidding should be aware of potential conflicts with DOD's existing uses of the OCS. BOEM coordinates with DOD throughout the leasing process and the Military Aviation and Installation Assurance Siting Clearinghouse conducted a DOD assessment of the Call Area. The assessment identified the following potential issues that may require mitigation.

i. *Air Surveillance and Radar:* The North American Aerospace Defense Command (NORAD) mission may be affected by the development of the Lease Area(s). Considering both the expected height of offshore turbines and future cumulative wind turbine effects, adverse impacts can be mitigated through the use of Radar Adverse-impact Management (RAM) [1] and overlapping radar coverage. For projects where RAM mitigation is acceptable, BOEM anticipates including the following project approval conditions:

(1) Lessee will notify NORAD when the project is within 30–60 days of completion of commissioning of the last wind turbine generator (WTG) (meaning every WTG in the Project is installed with potential for blade rotation), and again when the project is complete and operational, for RAM scheduling;

(2) Lessee will contribute funds to DOD in the amount of no less than $80,000 toward the cost of DOD's execution of the RAM procedures for each radar system affected; and

(3) Lessee will curtail wind turbine operations for national security or defense purposes as described in the lease.

ii. *Advanced Dynamic Aircraft Measurement System (ADAMS) operations:* The Department of the Navy identified ADAMS operations that could be impacted by development off the coast of Norfolk, Virginia, and may require curtailment or other mitigation.

iii. *U.S. Air Force and U.S. Air Force Air National Guard operations:* The U.S. Air Force noted that the airspace above both proposed Lease Areas has a floor of 1,000 feet above sea level. The U.S. Air Force requested BOEM limit structure heights to no higher than 1,000 feet above sea level.

BOEM may require the lessee to enter into an agreement with DOD to implement these conditions and mitigate any identified impacts. BOEM will further coordinate with DOD and the lessee to deconflict potential impacts throughout the project review stage, which may result in adding mitigation measures or terms and conditions as part of any plan approval.

d. *Proposed Restrictions Related to National Aeronautics and Space Administration (NASA) Wallops Island Flight Facility Operations:* NASA and the Missile Defense Agency identified potential impacts to operations originating from the Wallops Island Flight Facility. BOEM has included stipulations in proposed Lease OCS–A 0558 (NASA Operations, section 11) to avoid and minimize this potential conflict with wind energy development.

e. *Potential Future Restrictions to Mitigate Potential Conflicts with Sand Resources:* Potential bidders are advised that BOEM has developed sand resource areas in aliquots offshore the Mid Atlantic (MMIS Application (*https://mmis.doi.gov/BOEMMMIS/*)). OCS sand resource areas are composed of sand deposits found on or below the surface of the OCS seabed. If it is determined that significant OCS sand resources may be impacted by a proposed activity, BOEM may require you to undertake measures deemed economically, environmentally, and technically feasible to protect the resources to the maximum extent practicable, including minimizing, avoiding, and mitigating impact to these resources. Measures may include modification of proposed transmission corridor locations. There is potential for sand resources to exist in aliquots not currently identified. BOEM and/or BSEE will not approve future requests for in-place decommissioning of cables in sand resource areas unless BOEM's Marine Minerals Program has determined that the cable corridor does not unduly interfere with other uses of the OCS, specifically sand resource use.

III. Participation in the Proposed Lease Sale

a. *Bidder Participation:* Entities that have been notified by BOEM that their qualification is pending or that they are qualified to participate in the upcoming Central Atlantic auction through their response to the Call, or by separate submission of qualification materials, are not required to take any additional action to affirm their interest. Those entities are listed below:

Company name	Company No.
Avangrid Renewables, LLC	15019
US Mainstream Offshore, Inc	15089
OW North America Ventures LLC	15133
energyRe Offshore Wind Holdings, LLC	15171

All other entities wishing to participate in this proposed Central Atlantic auction must submit the required qualification materials to BOEM by the end of the 60-day comment period for this PSN.

b. *Affiliated Entities:* On the Bidder's Financial Form (BFF), discussed below, eligible bidders must list any other eligible bidders with whom they are affiliated. For the purpose of identifying affiliated entities, a bidding entity is any individual, firm, corporation, association, partnership, consortium, or joint venture (when established as a separate entity) that is participating in the same auction. BOEM considers bidding entities to be affiliated when:

i. They own or have common ownership of more than 50 percent of the voting securities, or instruments of ownership or other forms of ownership, of another bidding entity. Ownership of less than 10 percent of a bidding entity constitutes a presumption of non-control that BOEM may rebut.

ii. They own or have common ownership of 10 through 50 percent of the voting securities or instruments of ownership, or other forms of ownership,

[1] RAM is the technical process designed to minimize the adverse impact of obstruction interference on a radar system.

of another bidding entity, and BOEM determines that there is control upon consideration of factors including the following:

(1) The extent to which there are common officers or directors.

(2) With respect to the voting securities, or instruments of ownership or other forms of ownership: the percentage of ownership or common ownership, the relative percentage of ownership or common ownership compared to the percentage(s) of ownership by other bidding entities, if a bidding entity is the greatest single owner, or if there is an opposing voting bloc of greater ownership.

(3) Shared ownership, operation, or day-to-day management of a lease, grant, or facility as those terms are defined in BOEM's regulations at 30 CFR 585.112.

iii. They are both direct or indirect subsidiaries of the same parent company.

iv. If, with respect to any lease(s) offered in this auction, they have entered into an agreement prior to the auction regarding the shared ownership, operation, or day-to-day management of such lease.

v. Other evidence indicates the existence of power to exercise control, or that multiple bidders collectively have the power to exercise control over another bidding entity or entities.

Affiliated entities are not permitted to compete against each other in the auction. Where two or more affiliated entities have qualified to bid in the auction, the affiliated entities must decide prior to the auction which one (if any) will participate in the auction. If two or more affiliated entities attempt to participate in the auction, BOEM will disqualify those bidders from the auction.

BOEM solicits comments from stakeholders on this definition and will consider this feedback to potentially update its definition of affiliated entities in the Final Sale Notice (FSN).

IV. Questions for Stakeholders

Stakeholders are encouraged to comment on any matters related to this proposed lease sale that are of interest or concern. In addition, BOEM has identified the following issues as particularly important, and we encourage commenters to address these issues specifically:

a. *Number, size, orientation, and location of the proposed Lease Areas:* BOEM is requesting comment on the number of leases that should be offered within the Lease Areas, the size and orientation of the Lease Areas, and any portions of the Lease Areas that should be prioritized for inclusion or exclusion from this lease sale.

b. *Considerations for the delineation of a Lease Area:* These delineation considerations may include comparable commercial viability and size; prevailing wind direction and minimizing wake effects; maximized energy generating potential; possible setbacks at Lease Area boundaries; distance to shore, port infrastructure and electrical grid interconnections; and fair return to the Federal Government pursuant to the Outer Continental Shelf Lands Act through competition for commercially viable Lease Areas. BOEM welcomes additional comments regarding other considerations for how best to delineate Lease Areas.

i. *Lease Area C–1:* BOEM is specifically requesting comment on the need for a buffer or setback between proposed Lease Area C–1 (Lease OCS–A 0558) and the existing Lease Area OCS–A 0483 to the West. Comments on the need for a buffer, the size or distance of the buffer between leases, and the method for implementing a buffer between Lease Areas are requested. A buffer from the existing Lease Area could be accomplished through removal of lease blocks from proposed Lease Area C–1 or through a lease stipulation that prohibits surface structures within a specified distance of Lease OCS–A 0483. BOEM has included such lease stipulation (Siting Conditions, section 10) in Addendum ''C'' of proposed Lease OCS–A 0558.

c. *Existing uses and how they may be affected by the development of the proposed Lease Areas:* BOEM asks commenters to submit technical and scientific data in support of their comments.

d. *Bidding Credit for Workforce Training or Supply Chain Development:* Are there additional activities that should qualify for this bidding credit or are there other changes to the structure of the credit that will best aid in developing a sustained and robust U.S. offshore wind workforce and/or energy supply chain?

e. *Fisheries Compensatory Mitigation Fund Credit:* BOEM seeks comment on its proposal for a fisheries compensatory mitigation fund and the associated bidding credit as described in Section XII.

f. *Potential future bidding credit for Conservation Programs:* While this bidding credit is not being considered for the Central Atlantic, BOEM is requesting comments on a conservation program bidding credit, which would allow a bidder to receive a credit in exchange for a commitment to advance conservation for threatened and endangered species, migratory birds, or North Atlantic right whales (NARWs). The Contribution to advance conservation programs would need to result in demonstrable benefits to: (i) species conservation and/or recovery goals; and/or (ii) net positive impacts associated with habitat restoration, enhancement, or preservation for these species.

Specifically, BOEM is considering for future sales a credit that would include one or more of the following: (i) contributions supporting the development and operation of a near-real-time acoustic surveillance system to detect and report the location of NARWs that would directly inform adaptive management strategies for the protection of NARWs; (ii) establishment of an on-demand gear program that would provide, exchange, or otherwise replace gear used in Federal- and State-permitted commercial fisheries that deploy vertical lines with on-demand gear that would avoid entanglements with NARWs; (iii) programs that reduce underwater ambient noise caused by the operation of vessels; (iv) programs that meet recovery objectives for threatened and endangered bird species; and/or (v) restoration, enhancement, or protection of migratory bird breeding, resting, feeding, or migratory habitats. BOEM is seeking stakeholder feedback on the following:

i. What portion of the total bidding credits should go towards a conservation program?

ii. Eligible activities or projects authorized under a conservation bidding credit.

iii. Documentation and enforcement mechanisms.

g. *Limits on the Number of Lease Areas per Bidder:* BOEM is proposing to allow each qualified entity to bid for one Lease Area at a time and ultimately acquire only one Lease Area.

h. *New national security stipulations related to foreign interest:* BOEM has included new lease stipulations (4.4 and 4.5) for an Atlantic renewable energy lease related to foreign entities and national security. Stipulation 4.4 requires the lessee to provide the names of entities who own, or will engage in activities at, an OCS facility, and the names of any foreign entities allowed access to such facilities, to DOD for review at least 14 days prior to the lessee taking any actions in the Lease Area. Stipulation 4.5 requires an assignor and assignee to notify the Committee on Foreign Investment in the United States as part of the assignment process. BOEM requests comment on both of these proposed lease stipulations.

V. Proposed Lease Sale Deadlines and Milestones

This section describes the major deadlines and milestones in the auction process from publication of this PSN to execution of a lease issued pursuant to this sale.

a. The PSN Comment Period:

i. *Submit Comments:* The public is invited to submit comments during this 60-day period, which will expire on February 12, 2024. All comments received or postmarked during the comment period will be made available to the public and considered by BOEM prior to publication of the FSN.

ii. *Public Auction Seminar:* BOEM will host a public seminar to discuss the lease sale process and the auction format. The time and place of the seminar will be announced by BOEM and published on the BOEM website at *https://www.boem.gov/renewable-energy/state-activities/central-atlantic.* No registration or RSVP is required to attend.

iii. *Submit Qualification Materials:* Unless you have already received confirmation from BOEM that you are qualified to participate in the Central Atlantic auction, all qualification materials must be received by BOEM by February 12, 2024. This requirement includes the submission of materials sufficient to establish a company's legal, technical, and financial qualifications pursuant to 30 CFR 585.106–107. BOEM's qualification guidelines available at *https://www.boem.gov/Renewable-Energy-Qualification-Guidelines/* provide guidance on the types of information you should submit to BOEM. BOEM will inform you if you are qualified to participate in the auction.

iv. *Confidential information.* If you wish to protect the confidentiality of your comments or qualification materials, clearly mark the relevant sections and request that BOEM treat them as confidential. Please label privileged or confidential information with the caption ''Contains Confidential Information'' and consider submitting such information as a separate attachment. Treatment of confidential information is addressed in section XXI entitled, ''Protection of Privileged or Confidential Information.'' Information that is not labeled as privileged or confidential will be regarded by BOEM as suitable for public release.

b. End of PSN Comment Period to FSN Publication:

i. *Review Comments:* BOEM will review all comments submitted in response to the PSN during the comment period.

ii. *Finalize Qualifications Reviews:* Prior to the publication of the FSN, BOEM will complete any outstanding reviews of bidder qualification materials submitted during the PSN comment period. The final list of eligible bidders will be published in the FSN.

iii. *Prepare the FSN:* BOEM will prepare the FSN by updating information contained in the PSN where necessary.

iv. *Publish FSN:* BOEM will publish the FSN in the **Federal Register** at least 30 calendar days before the date of the sale.

c. *FSN Waiting Period:* During the period between FSN publication and the lease auction, qualified bidders would be required to take several steps to remain eligible to participate in the auction.

i. *Bidder's Financial Form:* Each bidder must submit a BFF to BOEM to participate in the auction. The BFF must include each bidder's Conceptual Strategy for each non-monetary bidding credit for which that bidder wishes to be considered. BOEM must receive each bidder's BFF no later than the date listed in the FSN. BOEM could consider extensions to this deadline only if BOEM determines that the failure to timely submit a BFF was caused by events beyond the bidder's control. The proposed BFF can be downloaded at: *https://www.boem.gov/renewable-energy/state-activities/central-atlantic.*

(1) Once BOEM has processed a bidder's BFF, the bidder would be allowed to log into *https://www.pay.gov* and submit a bid deposit. For purposes of this auction, BOEM would not consider BFFs submitted by bidders for previous lease sales. An original signed BFF may be mailed to BOEM's Office of Renewable Energy Programs for certification. A signed copy of the form may be submitted in PDF format to *renewableenergy@boem.gov.* A faxed copy will not be accepted. Your BFF submission should be accompanied with a transmittal letter on company letterhead.

(2) The BFF must be executed by an authorized representative listed on the bidder's legal qualifications in the BFF, in accordance with 18 U.S.C. 1001 (fraud and false statements).

(3) Additional information regarding the BFF may be found below in Section IX entitled, ''Bidder's Financial Form.''

ii. *Bid Deposit:* Each qualified bidder must submit a bid deposit of $5,000,000 in order to bid for one (1) Lease Area. Further information about bid deposits can be found below in Section X ''Bid Deposit.''

d. *Notification of Eligibility for Non-Monetary Credits:* Prior to the Mock Auction, BOEM would notify each bidder of its determination of eligibility for bidding credits for each auction in which the bidder is participating.

e. *Mock Auction:* BOEM will hold a Mock Auction that is open only to qualified bidders who have met the requirements and deadlines for auction participation, including submission of the bid deposit. Final details of the Mock Auction will be provided in the FSN.

f. *The Auction:* BOEM, through its contractor, will hold an auction as described in the FSN. The auction will take place no sooner than 30 calendar days following the publication of the FSN in the **Federal Register**. The estimated timeframes described in this PSN assume the auction will take place approximately 45 calendar days after the publication of the FSN. Final dates will be included in the FSN. BOEM will announce the provisional winners of the lease sale after the auction ends.

g. *From the Auction to Lease Execution:*

i. *Refund Non-Winners:* Once the provisional winners have been announced, BOEM will provide the non-winners with a written explanation of why they did not win and will return their bid deposits.

ii. *Department of Justice (DOJ) Review:* DOJ will have up to 30 calendar days to conduct an antitrust review of the auction, pursuant to 43 U.S.C. 1337(c).

iii. *Delivery of the Lease:* BOEM will send three lease copies to each provisional winner, with instructions on how to execute the lease. Once the lease has been fully executed, a provisional winner becomes an auction winner. The first year's rent is due 45 calendar days after the auction winners receive the lease copies for execution.

iv. *Return the Lease:* Within ten business days of receiving the lease copies, the auction winners must post financial assurance, pay any outstanding balance of their winning bids (*i.e.,* winning monetary bid minus applicable bid deposit and value of the bidding credit, as applicable), and sign and return the three executed lease copies. The winners may request extensions and BOEM may grant such extensions if BOEM determines the delay was caused by events beyond the requesting winner's control, pursuant to 30 CFR 585.224(e).

v. *Execution of Lease:* Once BOEM has received the signed lease copies and verified that all other required materials have been received, BOEM will make a final determination regarding its issuance of the leases and will execute the leases, if appropriate.

VI. Withdrawal of Blocks

BOEM reserves the right to withdraw all or portions of the Lease Areas prior to executing the leases with the winning bidders.

VII. Lease Terms and Conditions

BOEM has made available the proposed terms, conditions, and stipulations for the commercial leases that would be offered through this proposed sale. BOEM reserves the right to require compliance with additional terms and conditions associated with the approval of a site assessment plan (SAP) and COP. The proposed lease is on BOEM's website at: *https://www.boem.gov/renewable-energy/state-activities/central-atlantic.* Each lease would include the following attachments:

a. Addendum A (''Description of Leased Area and Lease Activities'');

b. Addendum B (''Lease Term and Financial Schedule'');

c. Addendum C (''Lease-Specific Terms, Conditions, and Stipulations''); and

d. Addendum D (''Project Easement'').

VIII. Lease Financial Terms and Conditions

This section provides an overview of the required annual payments and financial assurances under the lease. Please see the proposed lease, particularly Addendum ''B,'' for more detailed information, including any changes from past practices.

a. *Rent:* Pursuant to 30 CFR 585.224(b) and 585.503, the first year's rent payment of $3 per acre is due within 45 calendar days after the lessee receives the lease copies from BOEM. Thereafter, annual rent payments are due on the anniversary of the effective date of the lease (the ''Lease Anniversary''). Once commercial operations under the lease begin, BOEM will charge rent only for the portions of the Lease Area remaining undeveloped (*i.e.,* non-generating acreage). For example, for the 101,443 acres Lease Area of OCS–A 0557 (A–2), the rent payment would be $304,329 per year until commercial operations begin.

If the lessee submits an application for relinquishment of a portion of its leased area within the first 45 calendar days after receiving the lease copies from BOEM and BOEM approves that application, no rent payment would be due on the relinquished portion of the Lease Area. Later relinquishments of any portion of the Lease Area would reduce the lessee's rent payments starting in the year following BOEM's approval of the relinquishment.

The lessee also must pay rent for any project easement associated with the lease. Rent commences on the date that BOEM approves the COP that describes the project easement (or any modification of such COP that affects the easement acreage), as outlined in 30 CFR 585.507. If the COP revision results in increased easement acreage, additional rent would be required at the time the COP revision is approved. Annual rent for a project easement is the greater of $5 per acre per year or $450 per year.

b. *Operating Fee:* For purposes of calculating the initial annual operating fee payment under 30 CFR 585.506, BOEM applies an operating fee rate to a proxy for the wholesale market value of the electricity expected to be generated from the project during its first 12 months of operations. This initial payment will be prorated to reflect the period between the commencement of commercial operations and the Lease Anniversary. The initial annual operating fee payment will be due within 90 calendar days of the commencement of commercial operations. Thereafter, subsequent annual operating fee payments will be due on or before the Lease Anniversary.

The subsequent annual operating fee payments will be calculated by multiplying the operating fee rate by the imputed wholesale market value of the projected annual electric power production. For the purposes of this calculation, the imputed market value will be the product of the project's annual nameplate capacity, the total number of hours in a year (8,760), the capacity factor, and the annual average price of electricity derived from a regional wholesale power price index. For example, the annual operating fee for a 976 megawatt (MW) wind facility operating at a 40 percent capacity (*i.e.,* capacity factor of 0.4) with a regional wholesale power price of $40 per megawatt hour (MWh) and an operating fee rate of 0.02 would be calculated as follows:

$$\text{Annual Operating Fee} = 976\ \text{MW} \times 8{,}760\ \frac{\text{hrs}}{\text{year}} \times 0.4 \times$$

$$\frac{\$40}{\text{MWh}}\ \text{Power Price} \times 0.02 = \$2{,}735{,}923.20$$

i. *Operating Fee Rate:* The operating fee rate is the share of the imputed wholesale market value of the projected annual electric power production due to the Office of Natural Resources Revenue (ONRR) as an annual operating fee. For the Lease Areas, BOEM proposes to set the fee rate at 0.02 (2 percent) for the entire life of commercial operations.

ii. *Nameplate Capacity:* Nameplate capacity is the maximum rated electric output, expressed in MW, which the turbines of the wind facility under commercial operations can produce at their rated wind speed as designated by the turbine's manufacturer.

iii. *Capacity Factor:* BOEM proposes to set the capacity factor at 0.4 (*i.e.,* 40 percent) for the year in which the commercial operations date occurs and for the first six years of commercial operations on the lease. At the end of the sixth year, BOEM may adjust the capacity factor to reflect the performance over the previous five years based upon the actual metered electricity generation at the delivery point to the electrical grid. BOEM may make similar adjustments to the capacity factor once every five years thereafter.

iv. *Wholesale Power Price Index:* Under 30 CFR 585.506(c)(2)(i), the wholesale power price, expressed in dollars per MWh, is determined at the time each annual operating fee payment is due. For the leases offered in this sale the following table provides the proposed price data. A similar price dataset may also be used and may be posted by BOEM at *boem.gov* for reference.

Lease area name	Wholesale power price
A–2, OCS–A 0557	PJM DPL.
C–1, OCS–A 0558	PJM DOM.

c. *Financial Assurance:* Within ten business days after receiving the lease copies and pursuant to 30 CFR 585.515-.516, the provisional winner would be required to provide an initial lease-specific bond or other BOEM-approved

financial assurance instrument in the amount of $100,000. BOEM encourages the provisional winner to discuss financial assurance requirements with BOEM as soon as possible after the auction has concluded.

BOEM would base the amount of all SAP, COP, and decommissioning financial assurance on cost estimates for meeting all accrued lease obligations at the respective stages of development. The required amount of supplemental and decommissioning financial assurance will be determined on a case-by-case basis.

The financial terms described above can be found in Addendum ''B'' of the lease, which is available at: *https://www.boem.gov/renewable-energy/state-activities/central-atlantic.*

IX. Bidder's Financial Form

Each bidder is required to provide the information listed in the BFF referenced in this PSN. A copy of the proposed form is available at: *https://www.boem.gov/renewable-energy/state-activities/central-atlantic.* BOEM recommends that each bidder designate an email address in its BFF that the bidder will use to create an account in *https://www.pay.gov* (if it has not already done so). BOEM will not consider previously submitted BFFs for previous lease sales to satisfy the requirements of this auction. BOEM may consider BFFs submitted after the deadline set in the FSN if BOEM determines that the failure to timely submit the BFF was caused by events beyond the bidder's control. The BFF is required to be executed by an authorized representative listed in the qualification package on file with BOEM.

X. Bid Deposit

Each qualified bidder must submit a bid deposit no later than the date listed in the FSN. Typically, the deadline is approximately 30 calendar days after the publication of the FSN. BOEM may consider extensions to this deadline only if BOEM determines that the failure to timely submit the bid deposit was caused by events beyond the bidder's control.

Following the auction, bid deposits will be applied against the winning bid and other obligations owed to BOEM. If a bid deposit exceeds that bidder's total financial obligation, BOEM will refund the balance of the bid deposit to the bidder. BOEM will refund bid deposits to the unsuccessful bidders once BOEM has announced the provisional winners.

If BOEM offers a lease to a provisional winner and that bidder fails to timely return the signed lease, establish financial assurance, or pay the balance of its bid, BOEM will retain the bidder's $5,000,000 bid deposit for the Lease Area. In such a circumstance, BOEM reserves the right to offer a lease to the next highest bidder as determined by BOEM.

XI. Minimum Bid

The minimum bid is the lowest dollar amount per acre that BOEM will accept as a winning bid and is the amount at which BOEM will start the bidding in the auction. BOEM proposes a minimum bid of $100.00 per acre for this lease sale.

XII. Auction Procedures

a. *Multiple-Factor Bidding Auction:* As authorized under 30 CFR 585.220(a)(4) and 585.221(a)(6), BOEM proposes to use a multiple-factor auction format, with a multiple-factor bidding system, for this lease sale. Under BOEM's proposal, the bidding system for this lease sale would be a multiple-factor combination of monetary and non-monetary factors. The bid made by a particular bidder in each round would represent the sum of the monetary factor (cash bid) and the value of any non-monetary factors in the form of bidding credits. BOEM proposes to start the auction using the minimum bid price for the Lease Area and to increase prices incrementally until no more than one active bidder per Lease Area remains in the auction.

BOEM is proposing to grant bidding credits to bidders that commit to one or both of the following:

i. Supporting workforce training programs for the offshore wind industry or developing a domestic supply chain for the offshore wind industry, or a combination of both; or

ii. Establishing and contributing to a fisheries compensatory mitigation fund or contributing to an existing fund to mitigate potential negative impacts to commercial and for-hire recreational fisheries caused by OCS offshore wind development in the Central Atlantic.

These bidding credits are intended to:

i. Enhance, through training, the offshore wind workforce and/or enhance the establishment of a domestic supply chain for offshore wind manufacturing, assembly, or services, both of which will contribute to the expeditious and orderly development of offshore wind resources on the OCS;

ii. Support the expeditious and orderly development of OCS resources by mitigating potential direct impacts from proposed projects and encouraging the investment in infrastructure germane to the offshore wind industry; and

iii. Minimize potential economic effects on commercial fisheries impacted by potential offshore wind development, as cooperation with commercial fisheries impacted by OCS operations will enable development of the Lease Area to advance.

b. *Changes to Auction Rules:* BOEM will be employing new auction software for the Central Atlantic lease sale. The auction format remains an ascending clock auction with multi-factor bidding. Three primary changes have been made to the ascending clock auction rules in the new software.

The first change is that if a bidder decides to bid on a different Lease Area in a subsequent round of the auction, it will be allowed to submit an intra-round bid for the Lease Area it bid on in the previous round and, simultaneously, submit a bid for another Lease Area. This allows a bidder to possibly switch to another Lease Area if the price of the first Lease Area exceeds its specified intra-round bid price.

The second change is that the determination of provisional winners will no longer use a two-stage process. The auction rules are implemented in a way such that, when the auction concludes, the bidder who remains on a Lease Area after the final round becomes its provisional winner. There will be no additional processing to determine if any other Lease Areas can be awarded to other bidders.

The third change is that the upcoming auctions will use a 'second price' rule. A given Lease Area will be won by the bidder that submitted the highest bid amount for the Lease Area, but the winning bidder will pay the highest bid amount at which there was competition (*i.e.,* the 'second price').

All potential bidders should review the complete Auction Procedures for Offshore Wind Lease Sales (Version 1) located at: *https://www.boem.gov/renewable-energy/lease-and-grant-information.*

c. *The Auction:* Using an online bidding system to host the auction, BOEM will start the bidding for the Lease Areas as described below.

Lease area name	Lease area ID	Acres	Minimum bid
A–2	OCS–A0557	101,443	$10,144,300

Lease area name	Lease area ID	Acres	Minimum bid
C–1	OCS–A0558	176,505	17,650,500

Each auction will be conducted in a series of rounds. Before each round, the auction system will announce a clock price for each Lease Area offered in the auction. In Round 1, the clock prices (also known as the 'opening prices') are the minimum bid prices, and each bidder can bid for one Lease Area at those prices. After Round 1, the processed demand for a bidder is the Lease Area for which it bid in Round 1. After any round, if there is no processed demand for a bidder, the bidder's eligibility drops to zero, and the bidder can no longer bid in the auction.

Starting in Round 2, each Lease Area is assigned a range of prices for the round. The start-of-round price is the lowest price in the range, and the clock price is the highest price in the range. A bidder still eligible to bid after the previous round can either continue bidding at the new round's clock price for the Lease Area for which the bidder's processed demand is one or submit a bid to exit (reduce demand for) that Lease Area at any price in the range for that round. A bid to reduce demand at some price indicates that the bidder is not willing to acquire that Lease Area at a price exceeding the specified bid price. A bidder that submits a bid to reduce demand for a Lease Area can optionally bid on another Lease Area. If an eligible bidder does not place a bid for that Lease Area during the round, the auction system will consider this a request to exit that Lease Area at the start-of-round price.

If an eligible bidder does not place a bid for that Lease Area during the round, the auction system will consider this a request to exit that Lease Area at the start-of-round price.

After each round, the auction system processes the bids and determines each bidder's processed demand for each Lease Area and the posted prices for all the Lease Areas. The posted price is the price determined for each Lease Area after processing of all bids for a round. The posted price for a Lease Area in each round is the start-of-round price for that Lease Area in the next round. Because of the 'one-per-customer' rule, a bidder will have at most one bid on one Lease Area.

After the bids are processed, if each Lease Area has received one or fewer bids, the auction will end and each bidder on a Lease Area will become a provisional winner for that Lease Area. Otherwise, the auction will continue with a new round in which the start-of-round price for a Lease Area equals the posted price of the previous round.

The provisional winners of the auction will pay the ''second price'' amounts of their provisionally winning bids, or risk forfeiting their bid deposits. A provisional winner will be disqualified if it is subsequently found to have violated auction rules or BOEM regulations, or otherwise engaged in conduct detrimental to the integrity of the competitive auction. If a bidder submits a bid that BOEM determines to be a provisionally winning bid, the bidder must sign the applicable lease documents, post financial assurance, and submit the outstanding balance of its winning bid (*i.e.,* winning monetary bid minus the applicable bid deposit and the value of bidding credits, as applicable) within ten business days of receiving the lease copies, pursuant to 30 CFR 585.224. BOEM reserves the right to not issue the lease to the provisionally winning bidder if that bidder fails to: timely execute three copies of the lease and return them to BOEM, timely post adequate financial assurance, timely pay the balance of its winning bid, or otherwise comply with applicable regulations or the terms of the FSN. In any of these cases, the bidder will forfeit its bid deposit.

BOEM will publish the names of the provisional winners and the provisionally winning bid amounts shortly after the conclusion of the sale. Full bid results, including round-by-round results of the entire sale, will be published on BOEM's website after a review of the results and announcement of the provisional winner.

Additional Information Regarding the Auction Format:

i. *Authorized Individuals and Bidder Authentication:* An entity that is eligible to participate in the auction will identify on its BFF up to three individuals who will be authorized to bid on behalf of the company, including their names, business telephone numbers, and email addresses. All individuals will log into the auction system using *login.gov*. Prior to the auction, all the individuals listed on the BFF form must obtain a FIDO-compliant security key,[2] and must register this security key on *login.gov* using the same email address that was listed in the BFF. The *login.gov* registration, together with the FIDO-compliant security key, will enable the individual to log into the auction website. BOEM will provide information on this process on its website.

After BOEM has processed the bid deposits, the auction contractor will send an email to the authorized individuals, inviting them to practice logging into the auction website on a specific day in advance of the mock auction. The *login.gov* login process, along with the authentication for the auction helpdesk, will also be tested during the mock auction.

If an eligible bidder fails to submit a bid deposit or does not participate in the first round of the auction, BOEM will deactivate that bidder's login information.

ii. *Timing of Auction:* The FSN will provide specific information regarding when bidders can enter the auction system and when the auction will start.

iii. *Messaging Service:* BOEM and the auction contractors will use the auction platform messaging service to keep bidders informed on issues of interest during the auction. For example, BOEM could change the schedule at any time, including during the auction. If BOEM changes the schedule during an auction, it will use the messaging feature to notify bidders that a revision has been made and will direct bidders to the relevant page. BOEM will also use the messaging system for other updates during the auction.

Bidders could place bids at any time during the round. At the top of the bidding page, a countdown clock shows how much time remains in each round. Bidders will have until the scheduled time to place bids. Bidders should do so according to the procedures described in the FSN and the Auction Procedures for Offshore Wind Lease Sales. Information about the round results will be made available only after the round has closed, so there is no strategic advantage to placing bids early or late in the round.

The Auction Procedures for Offshore Wind Lease Sales will elaborate on the auction procedures described in this

[2] FIDO-keys are produced by many manufacturers, such as Yubico and Google. They are widely available and can easily be purchased from Amazon, Best Buy, Walmart, or any other seller of electronics. The latest generation of the FIDO standard is FIDO2, and you should obtain the key compliant with FIDO2 authentication standard. Depending on the computer you use, you might need to obtain an adapter as FIDO-keys require a USB port.

PSN. In the event of any inconsistency between the Auction Procedures for Offshore Wind Lease Sales, the Bidder Manual, and the FSN, the FSN is controlling.

iv. *Alternate Bidding Procedures:* Redundancy is the most effective way to mitigate technical and human issues during an auction. Bidders should strongly consider authorizing more than one individual to bid in the auction and confirm during the Mock Auction that each authorized individual is able to access the auction system. A 4G card or other form of wireless access may prove helpful if the bidder's primary internet connection should fail. As a last resort, an authorized individual facing technical issues may request to submit its bid by telephone. To be authorized to place a telephone bid, an authorized individual must call the help desk number listed in the auction manual before the end of the round. BOEM will authenticate the caller's identity. The caller must also explain the reasons why a telephone bid is necessary. BOEM may, in its sole discretion, permit or refuse to accept a request for the placement of a bid using this alternate telephonic bidding procedure. The auction help desk requires codes from the Google Authenticator app as part of its procedure for identifying individuals who call for assistance. Prior to the auction, all individuals listed on the BFF should download the Google Authenticator™ mobile app [3] onto their smartphone or tablet.[4] The first time the individual logs into the auction system, the system will provide a QR token to be read into the Google Authenticator™ app. This token is unique to the individual and enables the Google Authenticator™ app to generate time-sensitive codes that will be recognized by the auction system. When an individual calls the auction help desk, the current code from the app must be provided to the help desk representative as part of the user authentication process. BOEM will provide information on this process on its website.

d. *17.0 Percent Bidding Credit for Workforce Training or Supply Chain Development or a Combination of Both:* This proposed bidding credit would allow a bidder to receive a credit of 17.0 percent in exchange for a commitment to make a qualifying monetary contribution (''Contribution''), in the same amount as the bidding credit received, to programs or initiatives that support workforce training programs for the U.S. offshore wind industry or development of a U.S. domestic supply chain for the offshore wind industry, or both, as described in the BFF Addendum and the lease. To qualify for this credit, the bidder must commit to the bidding credit requirements on the BFF and submit a conceptual strategy as described in the BFF Addendum.

e.

i. As proposed, the Contribution to workforce training must result in a better trained and/or larger domestic offshore wind workforce that would provide for more efficient operations via increasing the supply of fully trained personnel. Training of existing lessee employees, lessee contractors, or employees of affiliated entities would not qualify.

ii. The Contribution to domestic supply chain development must result in overall benefits to the U.S. offshore wind supply chain available to all potential purchasers of offshore wind services, components, or subassemblies, not solely the lessee's project; and either: (i) the demonstrable development of new domestic capacity (including vessels) or the demonstrable buildout of existing capacity; or (ii) an improved offshore wind domestic supply chain by reducing the upfront capital or certification cost for manufacturing offshore wind components, including the building of facilities, the purchasing of capital equipment, and the certifying of existing manufacturing facilities.

iii. Contributions cannot be used to satisfy private cost shares for any Federal tax or other incentive programs where cost sharing is a requirement. No portion of the Contribution may be used to meet the requirements of any other bidding credits for which the lessee qualifies.

iv. Bidders interested in obtaining a bidding credit could choose to contribute to workforce training programs, domestic supply chain initiatives, or a combination of both. The Conceptual Strategy must describe verifiable actions that the lessee will take that would allow BOEM to confirm compliance when the documentation for satisfying the bidding credit is submitted. The Contribution must be tendered in full, and the lessee must provide documentation evidencing it has made the Contribution and complied with applicable requirements, no later than the date the lessee submits its first Facility Design Report (FDR).

v. As proposed, Contributions to workforce training would need to promote and support one or more of the following purposes: (i) Union apprenticeships, labor management training partnerships, stipends for workforce training, or other technical training programs or institutions focused on providing skills necessary for the planning, design, construction, operation, maintenance, or decommissioning of offshore wind energy projects in the United States; (ii) Maritime training necessary for the crewing of vessels to be used for the construction, servicing, and/or decommissioning of wind energy projects in the United States; (iii) Training workers in skills or techniques necessary to manufacture or assemble offshore wind components, subcomponents, or subassemblies (examples of areas involving these skills and techniques include welding; wind energy technology; hydraulic maintenance; braking systems; mechanical systems, including blade inspection and maintenance; or computers and programmable logic control systems); (iv) Tribal offshore wind workforce development programs or training for employees of an Indian Economic Enterprise [5] in skills necessary in the offshore wind industry; or (v) Training in any other job skills that the lessee can demonstrate are necessary for the planning, design, construction, operation, maintenance, or decommissioning of offshore wind energy projects in the United States.

vi. As proposed, Contributions to domestic supply chain development must promote and support one or more of the following: (i) Development of a domestic supply chain for the offshore wind industry, including manufacturing of components and sub-assemblies and the expansion of related services; (ii) Domestic Tier 2 and Tier 3 offshore wind component suppliers and domestic Tier-1 supply chain efforts, including quay-side fabrication; [6] (iii) Technical assistance grants to help U.S. manufacturers re-tool or certify (*e.g.,* ISO–9001) for offshore wind manufacturing; (iv) Development of Jones Act-compliant vessels for the construction, servicing, and/or decommissioning of wind energy projects in the United States; (v) Purchase and installation of lift cranes or other equipment capable of lifting or moving foundations, towers, and

[3] Google Authenticator must be installed from either the Apple App Store or the Google Play Store.

[4] Installing the app is only required if the Google Authenticator is not already installed on the smartphone or tablet.

[5] *https://www.bia.gov/sites/default/files/dup/assets/as-ia/ieed/Primer%20on%20Buy%20Indian%20Act%20508%20Compliant%202.6.18 (Reload).pdf.*

[6] Tier-1 denotes the primary offshore wind components such as the blades, nacelles, towers, foundations, and cables. Tier 2 subassemblies are the systems that have a specific function for a Tier 1 component. Tier 3 subcomponents are commonly available items that are combined into Tier 2 subassemblies, such as motors, bolts, and gears.

nacelles quayside, or lift cranes on vessels with these capabilities; (vi) Port infrastructure directly related to offshore wind component manufacturing or assembly of major offshore wind facility components; (vii) Establishing a new or existing bonding support reserve or revolving fund available to all businesses providing goods and services to offshore wind energy companies, including disadvantaged businesses and/or Indian Economic Enterprises; or (viii) Other supply chain development efforts that the lessee can demonstrate advance the manufacturing of offshore wind components or subassemblies or the provision of offshore wind services in the United States.

vii. Documentation: If a lease is issued pursuant to a winning bid that includes a bidding credit for workforce training or supply chain development, the lessee would be required to provide documentation showing that the lessee has met the financial commitment before the lessee submits the first FDR for the lease. The documentation must allow BOEM to objectively verify the amount of the Contribution and the beneficiary(ies) of the Contribution.

At a minimum, the documentation would need to include: all written agreements between the lessee and beneficiary(ies) of the Contribution, which must detail the amount of the Contribution(s) and how it will be used by the beneficiaries of the Contribution(s) to satisfy the goals of the bidding credit for which the Contribution was made; all receipts documenting the amount, date, financial institution, and the account and owner of the account to which the Contribution was made; and sworn statements by the entity that made the Contribution and the beneficiary(ies) of the Contribution attesting that all information provided in the above documentation is true and accurate. The documentation would need to describe how the funded initiative or program has advanced, or is expected to advance, U.S. offshore wind workforce training or supply chain development. The documentation must also provide qualitative and/or quantitative information that includes the estimated number of trainees or jobs supported, or the estimated leveraged supply chain investment resulting or expected to result from the Contribution. The documentation would need to contain any information called for in the Conceptual Strategy that the lessee submitted with its BFF and to allow BOEM to objectively verify (i) the amount of the Contribution and the beneficiary(ies) of the Contribution, and (ii) compliance with the bidding credit criteria provided in Addendum ''C'' of the lease. If the lessee's implementation of its Conceptual Strategy changes due to market needs or other factors, the lessee would need to explain the changed approach. BOEM would reserve all rights to determine that the bidding credit has not been satisfied if changes from the lessee's Conceptual Strategy result in the lessee not meeting the criteria for the bidding credit described in Addendum ''C'' of the lease.

viii. Enforcement: The commitment for the bidding credit would be made in the BFF and would be included in a lease addendum that would bind the lessee and all future assignees of the lease. If BOEM were to determine that a lessee or assignee had failed to satisfy the requirements of the bidding credit, or if a lessee were to relinquish or otherwise fail to develop the lease by the tenth anniversary date of lease issuance, the amount corresponding to the bidding credit awarded would be immediately due and payable to ONRR with interest from the lease Effective Date. The interest rate would be the underpayment interest rate identified by ONRR. The lessee would not be required to pay said amount if the lessee satisfied its bidding credit requirements but failed to develop the lease by the tenth Lease Anniversary. BOEM could, at its sole discretion, extend the documentation deadline beyond the first FDR submission or extend the lease development deadline beyond the 10-year timeframe.

f. *Eight percent Bidding Credit for Fisheries Compensatory Mitigation Fund:* The second bidding credit proposed would allow a bidder to receive a credit of 8.0 percent of its bid in exchange for a commitment to establish and contribute to a fisheries compensatory mitigation fund, or to contribute to a similar existing fund, to compensate for potential negative impacts to commercial and for-hire recreational fisheries. The term ''commercial fisheries'' refers to commercial and processing businesses engaged in the act of catching and marketing fish and shellfish for sale from the Central Atlantic. The term ''for-hire recreational fisheries'' refers to charter and headboat fishing operations involving vessels-for-hire engaged in recreational fishing in the Central Atlantic that are hired for a charter fee by an individual or group of individuals for the exclusive use of that individual or group of individuals. Lessees are encouraged to contribute to a regional fund, such as the initiative by eleven East Coast states to establish a regional fund that would provide financial compensation for economic loss from offshore wind development off the Atlantic Coast. At a minimum, the compensation must address the following:

i. Gear loss or damage; and

ii. Lost fishing income in Central Atlantic wind energy Lease Areas.

The fisheries compensatory mitigation fund would assist commercial and for-hire recreational fisheries directly impacted by income or gear losses due to offshore wind activities on offshore wind leases or easements and is intended to address the impacts identified in BOEM's environmental and project reviews. The compensatory mitigation must cover impacts that result directly from the preconstruction, construction, operations and decommissioning of an offshore wind project being developed on Central Atlantic wind energy leases or easements. The fund must be established and the Contribution made before the lessee submits the lease's first FDR or before the fifth Lease Anniversary, whichever is sooner. To qualify for this credit, the bidder must commit to the bidding credit requirements on the BFF and submit a conceptual strategy as described in the BFF Addendum.

(1) Bidders committing to use the fisheries compensatory mitigation fund bidding credit must submit their Conceptual Strategy along with their BFF, further described below and in the BFF Addendum. The Conceptual Strategy would describe the actions that the lessee intends to take that would allow BOEM to verify compliance when the lessee seeks to demonstrate satisfaction of the requirements for the bidding credit. The lessee would be required to provide documentation showing that the lessee has met the commitment and complied with the applicable bidding credit requirements before the lessee submits the lease's first FDR or before the fifth Lease Anniversary, whichever is sooner.

(2) As proposed, gear loss, damage, and fishing income loss claims should be prioritized at each phase of offshore wind project development, including impacts from surveys conducted before the establishment of the fund. BOEM encourages lessees to coordinate with other lessees to establish or contribute to a regional fund. A regional fund should be flexible enough to incorporate future contributions from future lease auctions and actuarially sound enough to recognize the multi-decade life of offshore wind projects in the Central Atlantic. While the fund's first priority is to compensate for gear loss or damage

and income loss, funds that have been determined to be excess based on an actuarial accounting may be used to:

a. Promote participation of fishers and fishing communities in the project development process or other programs that better enable the fishing and offshore wind industries to co-exist;

b. Offset the cost of gear upgrades and transitions for operating within a wind facility.

Any fund established or selected by the lessee to meet this bidding credit requirement must include a process for evaluating the actuarial status of funds at least every five years and publicly reporting information on fund disbursement and administrative costs at least annually.

(3) The fisheries compensatory mitigation fund must be independently managed by a third party and designed with fiduciary governance and strong internal controls while minimizing administrative expenses. The Contribution may be used for fund startup costs, but the Fund should minimize costs by leveraging existing processes, procedures, and information from BOEM Fisheries Mitigation Guidance, the Eleven Atlantic States' Fisheries Mitigation Project, or other sources.

(4) Documentation: As proposed, if a lease is awarded pursuant to a winning bid that includes a fisheries compensatory mitigation fund bidding credit, the lessee must provide written documentation to BOEM that demonstrates that it completed the fund Contribution before it submits the lease's first FDR or before the fifth Lease Anniversary, whichever is sooner. The documentation must enable BOEM to objectively verify the Contribution has met all applicable requirements as outlined in Addendum ''C'' of the lease. At a minimum, this documentation must include:

a. The procedures established to compensate for gear loss or damage resulting from all phases of the project development on the Lease Area (pre-construction, construction, operation, and decommissioning);

b. The fisheries compensatory mitigation fund charter, including the governance structure, audit and public reporting procedures, and standards for paying compensatory mitigation for impacts to fishers from development on wind energy Lease Areas in the Central Atlantic;

c. All receipts documenting the amount, date, financial institution, and the account and owner of the account to which the Contribution was made; and

d. Sworn statements by the entity that made the Contribution, attesting to:

i. The amount and date(s) of the Contribution;

ii. That the Contribution is being (or will be) used in accordance with the bidding credit requirements in the lease; and

iii. That all information provided is true and accurate.

The documentation must contain any information specified in the Conceptual Strategy that was submitted with the BFF. If the lessee's implementation of its Conceptual Strategy changes due to market needs or other factors, the lessee would need to explain this change. BOEM reserves the right to determine that the bidding credit has not been satisfied if changes from the lessee's Conceptual Strategy result in the lessee not meeting the criteria for the bidding credit described in Addendum ''C'' of the lease.

(5) Enforcement: The commitment to the fisheries compensatory mitigation fund bidding credit will be made in the BFF. It will be included in Addendum ''C'' of the lease and will bind the lessee and all future assignees of the lease. If BOEM were to determine that a lessee or assignee had failed to satisfy the commitment at the time the first FDR is submitted, or by the fifth Lease Anniversary, whichever is sooner, the amount corresponding to the bidding credit awarded would be immediately due and payable to ONRR with interest from the lease effective date. The interest rate would be the underpayment interest rate identified by ONRR. The lessee would not be required to pay said amount if the lessee satisfied its bidding credit requirements by the time the first FDR is submitted, or the fifth Lease Anniversary, whichever is sooner. BOEM may, at its sole discretion, extend the documentation deadline beyond the first FDR or beyond the 5-year timeframe.

XIII. Rejection or Non-Acceptance of Bids

BOEM reserves the right and authority to reject any and all bids that do not satisfy the requirements and rules of the auction, the FSN, or applicable regulations and statutes.

XIV. Anti-Competitive Review

Bidding behavior in this sale is subject to Federal antitrust laws. Following the auction, but before the acceptance of bids and the issuance of the lease, BOEM must ''allow the Attorney General, in consultation with the Federal Trade Commission, thirty days to review the results of [the] lease sale.'' 43 U.S.C. 1337(c)(1). If a provisional winner is found to have engaged in anti-competitive behavior in connection with this lease sale, BOEM may reject its provisionally winning bid. Compliance with BOEM's auction procedures and regulations is not an absolute defense against violations of antitrust laws.

Anti-competitive behavior determinations are fact specific. However, such behavior may manifest itself in several different ways, including, but not limited to:

a. An express or tacit agreement among bidders not to bid in an auction, or to bid a particular price;

b. An agreement among bidders not to bid against each other; or

c. Other agreements among bidders that have the potential to affect the final auction price.

Pursuant to 43 U.S.C. 1337(c)(3), BOEM may decline to award a lease if the Attorney General, in consultation with the Federal Trade Commission, determines that awarding the lease may be inconsistent with antitrust laws.

For more information on whether specific communications or agreements could constitute a violation of Federal antitrust law, please see *https://www.justice.gov/atr* and consult legal counsel.

XV. Process for Issuing the Lease

Once all post-auction reviews have been completed to BOEM's satisfaction, BOEM will issue three unsigned copies of the lease to the provisional winner. Within ten business days after receiving the lease copies, the provisional winner must:

a. Execute and return the lease copies on the bidder's behalf;

b. File financial assurance, as required under 30 CFR 585.515–537; and

c. Pay by electronic funds transfer (EFT) the balance of the winning bid (winning monetary bid minus the applicable bid deposit and value of bidding credit, as applicable). BOEM would require bidders to use EFT procedures (not *https://www.pay.gov,* the website bidders used to submit bid deposits) for payment of the balance of the bonus bid, following the detailed instructions contained the ''Instructions for Making Electronic Payments'' available on BOEM's website at: *https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/EFT-Payment-Instructions.pdf.*

BOEM will not execute the lease until the three requirements above have been satisfied. BOEM may extend the 10-business-day deadline if BOEM determines the delay was caused by events beyond the provisional winner's control.

If the provisional winner does not meet these requirements or otherwise fails to comply with applicable regulations or the terms of the FSN, BOEM reserves the right to not issue the lease to that bidder. In such a case, the provisional winner would forfeit its bid deposit. Also, in such a case, BOEM reserves the right to offer the lease to the next highest bidder as determined by BOEM.

Within 45 calendar days after receiving the lease copies, the provisional winner must pay the first year's rent using the ''ONRR Renewable Energy Initial Rental Payments'' form available at: *https://www.pay.gov/public/form/start/27797604/.*

Subsequent annual rent payments must be made following the detailed instructions contained in the ''Instructions for Making Electronic Payments,'' available on BOEM's website at: *https://www.boem.gov/renewable-energy/state-activities/central-atlantic.*

XVI. Non-Procurement Debarment and Suspension Regulations

Pursuant to 43 CFR part 42, subpart C, an OCS renewable energy lessee must comply with the Department of the Interior's non-procurement debarment and suspension regulations at 2 CFR parts 180 and 1400. The lessee must also communicate this requirement to persons with whom the lessee does business relating to this lease by including this requirement as a term or condition in their contracts and other transactions.

XVII. Final Sale Notice

The development of the FSN will be informed through the EA, related consultations, and comments received during the PSN comment period. The FSN will provide the final details concerning the offering and issuance of an OCS commercial wind energy lease for the Lease Areas in the Central Atlantic. The FSN will be published in the **Federal Register** at least 30 calendar days before the lease sale is conducted and will provide the date and time of the auction.

XVIII. Changes to Auction Details

BOEM has the discretion to change any auction detail specified in the FSN, including the date and time, if events outside BOEM's control have been found to interfere with a fair and proper lease sale. Such events may include, but are not limited to, natural disasters (*e.g.,* earthquakes, hurricanes, floods, and blizzards), wars, riots, act of terrorism, fire, strikes, civil disorder, Federal Government shutdowns, cyberattacks against relevant information systems, or other events of a similar nature. In case of such events, BOEM would notify all qualified bidders via email, phone, and BOEM's website at: *https://www.boem.gov/renewable-energy/state-activities/central-atlantic.* Bidders should call BOEM's Auction Manager at (703) 787–1121 if they have concerns.

XIX. Appeals

The appeals and reconsideration procedures are provided in BOEM's regulations at 30 CFR 585.225 and 585.118(c). BOEM's decision on a bid is the final action of the Department, except that an unsuccessful bidder may apply for reconsideration by the Director under 30 CFR 585.225 as follows:

a. If BOEM rejects your bid, BOEM will provide a written statement of the reasons and will refund any money deposited with your bid, without interest.

b. You may ask the BOEM Director for reconsideration, in writing, within 15 business days of bid rejection. The Director will send you a written response either affirming or reversing the rejection.

XX. Public Participation

BOEM will make all comments publicly available on *https://www.regulations.gov* under the docket number and will consider each comment prior to publication of the FSN. BOEM does not consider anonymous comments; please include your name, address, and telephone number or email address as part of your comment. You should be aware that your entire comment, including your name, address, and any other personally identifiable information (PII) included in your comment, may be made publicly available at any time.

For BOEM to consider withholding from disclosure your PII, you must identify, in a cover letter, any information contained in the submittal of your comments that, if released, would constitute a clearly unwarranted invasion of your personal privacy. You must also briefly describe any possible harmful consequences of the disclosure of information, such as embarrassment, injury, or other harm.

Even if BOEM withholds your information in the context of this PSN, your comment is subject to the Freedom of Information Act (FOIA). If your submission is requested under the FOIA, your information will only be withheld if a determination is made that one of the FOIA's exemptions to disclosure applies. Such a determination will be made in accordance with the Department's FOIA regulations and applicable law.

Note that BOEM will make available for public inspection, in their entirety, all comments submitted by organizations and businesses, or by individuals identifying themselves as representatives of organizations or businesses.

XXI. Protection of Privileged and Confidential Information

BOEM will protect privileged and confidential information that you submit consistent with FOIA and 30 CFR 585.113. Exemption 4 of FOIA applies to ''trade secrets and commercial or financial information obtained from a person'' that is privileged or confidential. (5 U.S.C. 552(b)(4)). If you wish to protect the confidentiality of such information, clearly mark it ''Contains Privileged or Confidential Information'' and consider submitting such information as a separate attachment. BOEM will not disclose such information, except as required by FOIA. Information that is not labeled as privileged or confidential may be regarded by BOEM as suitable for public release. Further, BOEM will not treat as confidential aggregate summaries of otherwise non-confidential information.

a. *Access to Information (54 U.S.C. 307103):* BOEM may, after consultation with the Secretary of the Interior, withhold the location, character, or ownership of historic properties if it determines that disclosure may, among other things, cause a significant invasion of privacy, risk harm to the historic resources, or impede the use of a traditional religious site by practitioners. Tribes and other interested parties should designate information that they wish to be held as confidential and provide the reasons why BOEM should do so.

Authority: 43 U.S.C. 1337(p); 30 CFR 585.211 and 585.216.

Elizabeth Klein,

Director, Bureau of Ocean Energy Management.

[FR Doc. 2023–27200 Filed 12–11–23; 8:45 am]

BILLING CODE 4340–98–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0360]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Previously Approved Collection; Generic Clearance for Cognitive, Pilot, and Field Studies for Office of Juvenile Justice and Delinquency Prevention Data Collection Activities

AGENCY: Office of Justice Programs, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The National Institute of Justice, Office of Justice Programs, Department of Justice (DOJ), 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. The proposed information collection was previously published in the **Federal Register** on September 25, 2023, allowing a 60-day comment period.

DATES: Comments are encouraged and will be accepted for 30 days until January 11, 2024.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Benjamin Adams, Supervisory Social Science Analyst, National Institute of Justice, 810 Seventh Street NW, Washington, DC 20531 (email: *benjamin.adams@usdoj.gov;* telephone: 202–616–3687).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Office of Juvenile Justice and Delinquency Prevention, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and/or

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Written comments and recommendations for this information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the information collection or the OMB Control Number 1121–0360. This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Justice, information collections currently under review by OMB.

DOJ seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOJ notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *Title of the Form/Collection:* Generic clearance for cognitive, pilot, and field studies for Office of Juvenile Justice and Delinquency Prevention data collection activities.

3. *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form numbers are not available for a generic clearance. The applicable components within the Department of Justice are the National Institute of Justice and the Office of Juvenile Justice and Delinquency Prevention, in the Office of Justice Programs.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Affected Public: State, local and tribal governments, individuals or households, Private Sector-for or not for profit institutions. Abstract: The proposed generic information collection clearance will enable the National Institute of Justice (NIJ), on behalf of the Office of Juvenile Justice and Delinquency Prevention (OJJDP), to develop, test, and improve its survey and data collection instruments and methodologies. NIJ will engage in cognitive, pilot, and field test activities to inform its data collection efforts and to minimize respondent burden associated with each new or modified data collection. NIJ anticipates using a variety of procedures including, but not limited to, tests of various types of survey and data collection operations, focus groups, cognitive laboratory activities, pilot testing, field testing, exploratory interviews, experiments with questionnaire design, and usability testing of electronic data collection instruments.

5. *Obligation to Respond:* The obligation to respond is voluntary.

6. *Total Estimated Number of Respondents:* 2,500.

7. *Estimated Time per Respondent:* 95 minutes.

8. *Frequency:* Once.

9. *Total Estimated Annual Time Burden:* 4,000 hours.

10. *Total Estimated Annual Other Costs Burden:* $0.

If additional information is required, contact: Darwin Arceo, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC 20530.

Dated: December 6, 2023.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2023–27179 Filed 12–11–23; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Parole Commission

Sunshine Act Meeting

DATE AND TIME: Thursday, December 14, 2023, at 1:30 p.m.

PLACE: U.S. Parole Commission, 90 K Street NE, 3rd Floor, Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of September 7, 2023, Quarterly Meeting Minutes.

2. Updates since September Quarterly Meeting from the Acting Chairman, Commissioner, Acting Chief of Staff/Case Operations Administrator, Case Services Administrator, Executive Officer, and General Counsel.

CONTACT PERSON FOR MORE INFORMATION: Jacquelyn Graham, Staff Assistant to the Chairman, U.S. Parole Commission, 90 K Street NE, 3rd Floor, Washington, DC 20530, (202) 346–7010.

Dated: December 7, 2023.

Patricia K. Cushwa,

Chairman (Acting), U.S. Parole Commission.

[FR Doc. 2023–27276 Filed 12–8–23; 11:15 am]

BILLING CODE 4410–31–P

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

Proposed Renewal of the Approval of Information Collection Requirements; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor (DOL), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the 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 (PRA). The program helps 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 Office of Federal Contract Compliance Programs (OFCCP) is soliciting comments concerning its proposal to obtain approval from the Office of Management and Budget (OMB) for renewal of the information collection for its Contractor Portal interface (formerly the ''Affirmative Action Program Verification Interface''). A copy of the proposed information collection request can be obtained by contacting the office listed below in the **FOR FURTHER INFORMATION CONTACT** section of this notice or by accessing it at *www.regulations.gov.*

DATES: Written comments must be submitted to the office listed in the addresses section below on or before February 12, 2024.

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

Electronic comments: The Federal eRulemaking portal at *www.regulations.gov.* Follow the instructions found on that website for submitting comments.

Mail, Hand Delivery, Courier: Addressed to Tina T. Williams, Acting Deputy Director of OFCCP and Director of Policy & Program Development, Office of Federal Contract Compliance Programs, 200 Constitution Avenue NW, Room C–3325, Washington, DC 20210.

Instructions: Please submit one copy of your comments by only one method. For faster submission, we encourage commenters to transmit their comment electronically via the *www.regulations.gov* website. Comments that are mailed to the address provided above must be postmarked before the close of the comment period. All submissions must include OFCCP's name for identification. Comments submitted in response to the notice, including any personal information provided, become a matter of public record and will be posted on *www.regulations.gov.* Comments will also be summarized and/or included in the request for OMB approval of the information collection request.

FOR FURTHER INFORMATION CONTACT: Tina T. Williams, Acting Deputy Director of OFCCP and Director of Policy & Program Development, Office of Federal Contract Compliance Programs, 200 Constitution Avenue NW, Room C–3325, Washington, DC 20210. Telephone: (202) 693–0103 or toll free at 1–800–397–6251. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services. Copies of this notice may be obtained in alternative formats (large print, braille, audio recording) upon request by calling the numbers listed above.

SUPPLEMENTARY INFORMATION:

I. Background

OFCCP administers and enforces the three equal employment opportunity authorities listed below:

- Executive Order 11246, as amended (E.O. 11246);
- Section 503 of the Rehabilitation Act of 1973, as amended (Section 503); and
- Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (VEVRAA).

These authorities prohibit employment discrimination by covered Federal contractors and subcontractors and require that they provide equal employment opportunities regardless of race, color, religion, sex, sexual orientation, gender identity, national origin, disability, or status as a protected veteran. Additionally, Federal contractors and subcontractors are prohibited from discriminating against applicants and employees for inquiring about, discussing, or disclosing information about their pay or the pay of their co-workers, subject to certain limitations.

E.O. 11246's basic coverage applies to Federal contractors and subcontractors and to Federally assisted construction contractors holding a government contract in excess of $10,000, or government contracts that have, or can reasonably be expected to have, an aggregate total value exceeding $10,000 in a 12-month period. E.O. 11246 also applies to government bills of lading, depositories of Federal funds in any amount, and to financial institutions that are issuing and paying agents for U.S. Savings Bonds. E.O. 11246's Affirmative Action Program (AAP) requirements apply to Federal contractors and subcontractors with 50 or more employees and a contract of $50,000 or more.

Section 503 prohibits Federal contractors and subcontractors from discriminating in employment against individuals with disabilities. It also requires Federal contractors and subcontractors to take affirmative action to ensure equal employment opportunity for individuals with disabilities. Its requirements apply Federal contractors and subcontractors with a Government contract in excess of $15,000 and its AAP coverage applies to Federal contractors and subcontractors with 50 or more employees and a contract of $50,000 or more.

VEVRAA prohibits employment discrimination against protected veterans. It also requires Federal contractors and subcontractors to take affirmative action to ensure equal employment opportunity for protected veterans. Its requirements apply to Federal contractors and subcontractors with a Government contract of $150,000 or more, and its AAP coverage applies to Federal contractors and subcontractors with 50 or more employees and a contract of $150,000 or more. This information collection request (ICR) seeks reauthorization for the annual AAP online certification process for Federal contractors and for a secure method for Federal contractors to submit AAPs electronically to OFCCP when they are scheduled for a compliance evaluation.

II. Review Focus

OFCCP is particularly interested in comments that:

- Evaluate the proposed frequency and level of information collection;
- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information,

including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• 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.

III. Current Actions

OFCCP seeks renewal for this information collection to carry out its responsibilities to enforce the provisions of the three legal authorities it administers.

Type of Review: Renewal.

Agency: Office of Federal Contract Compliance Programs.

Title: Contractor Portal.

OMB Control Number: 1250–0012.

Agency Number: None.

Affected Public: Business or other for-profit entities.

Total Respondents: 98,257.

Total Annual Responses: 98,257.

Average Time per Response: .42 hours for new contractors; .13 hours for existing contractors.

Estimated Total Burden Hours: 13,082.

Frequency: Annual.

Total Monetized Burden Cost: $932,354.

Total Burden Costs to Federal Government: $628,550.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection request; they will also become a matter of public record.

Tina T. Williams,

Acting Deputy Director of OFCCP and Director of Policy & Program Development, Office of Federal Contract Compliance Programs.

[FR Doc. 2023–27241 Filed 12–11–23; 8:45 am]

BILLING CODE 4510–CM–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meetings

TIME AND DATE: 10:00 a.m., Thursday, December 14, 2023.

PLACE: Board Room, 7th Floor, Room 7B, 1775 Duke Street (All visitors must use Diagonal Road Entrance), Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. NCUA Operating Fee Schedule Methodology.
2. NCUA's 2024–2025 Budget.
3. Request for Comment, NCUA Overhead Transfer Rate (OTR) Methodology.
4. Central Liquidity Facility's 2024 Budget.

(The NCUA Board, in its capacity as the Central Liquidity Facility Board).

CONTACT PERSON FOR MORE INFORMATION: Melane Conyers-Ausbrooks, Secretary of the Board, Telephone: 703–518–6304.

Melane Conyers-Ausbrooks,

Secretary of the Board.

[FR Doc. 2023–27293 Filed 12–8–23; 4:15 pm]

BILLING CODE 7535–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act in the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by January 11, 2024. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, Virginia 22314.

FOR FURTHER INFORMATION CONTACT: Andrew Titmus, ACA Permit Officer, at the above address, 703–292–4479, or *ACApermits@nsf.gov.*

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541, 45 CFR 671), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Application Details

Permit Application: 2024–013

1. *Applicant:* Daniel Villa, Sea Shepherd Global, 1217 S 9th St., Tacoma, WA 98405

Activity for Which Permit is Requested: Waste Management. The applicant has provided a revised application to seek an Antarctic Conservation Permit for waste management activities associated with use of remotely piloted aircrafts (RPAs) in Antarctica. Aircrafts will be used for documenting krill fishery activities and capturing video footage of wildlife from an oblique angle at least 75 m away in all directions. RPAs will not be flown over any concentrations of wildlife, Antarctic Specially Protected or Managed Areas or Historic Sites and Monuments without appropriate authorization. Aircraft are only to be flown by experienced, pre-approved pilots in fair weather conditions and in the presence of an observer, who will always maintain visual line of sight with the aircraft during operation. Mitigating measures are in place to prevent loss of the aircraft such as conducting site assessments in advance of deployment and having alternative landing sites.

Location: Antarctic Peninsula Region.

Dates of Permitted Activities: January 5, 2023–February 15, 2024.

Kimiko S. Bowens-Knox,

Program Analyst, Office of Polar Programs.

[FR Doc. 2023–27214 Filed 12–11–23; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings

The National Science Board's (NSB) NSB–NSF Commission on Merit Review hereby gives notice of the scheduling of a videoconference meeting for the transaction of National Science Board business pursuant to the National Science Foundation Act and the Government in the Sunshine Act.

TIME AND DATE: Wednesday, December 13, 2023, from 12:00–1:30 p.m. Eastern.

PLACE: This meeting will be held in person and by videoconference through the National Science Foundation headquarters at 2415 Eisenhower Ave., Alexandria, VA 22314.

STATUS: One portion open and one portion closed.

MATTERS TO BE CONSIDERED:

Open: 12:00–1:00 p.m. Matters to be considered—Commission Chair's opening remarks; Discussion of Diversity, Equity, Inclusion, and

Accessibility in Merit Review; Closing remarks.

Closed: 1:00–1:30 p.m. Matters to be considered—Chairman's opening remarks regarding the agenda; Discussion of data collection workplan and instruments; Closing remarks.

CONTACT PERSON FOR MORE INFORMATION: Point of contact for this meeting is: (Chris Blair, *cblair@nsf.gov*), 703/292–7000. Members of the public can observe the public portion of this meeting through a YouTube livestream. The YouTube link will be available from the NSB web page.

Ann E. Bushmiller,

Senior Legal Counsel to the National Science Board.

[FR Doc. 2023–27278 Filed 12–8–23; 11:15 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act in the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by January 11, 2024. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, Virginia 22314 or *ACApermits@nsf.gov.*

FOR FURTHER INFORMATION CONTACT: Andrew Titmus, ACA Permit Officer, at the above address, 703–292–4479.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541, 45 CFR 671), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Application Details

1. *Applicant* Permit Application: 2024–018

Sarah Kienle, Baylor University, Baylor Science Building, One Bear Place #97388, Waco, TX 76798

Activity for Which Permit Is Requested

Take, Import into USA, Export from USA. The applicant seeks an ACA permit for research on the adaptive capacity of pinnipeds in Antarctica. The applicant proposes to collect tissue samples from leopard, crabeater, Weddell, Ross, and southern elephant seals using a biopsy dart gun. The applicant proposes to also opportunistically collect tissue samples found near animals. The applicant proposes to handle up to 30 pups and 30 adults each year. Adult seals would be chemically immobilized and physiological samples taken. Adult seals would also be marked and have biologging instruments attached. Additionally, the applicant proposes to use Remotely Piloted Aircraft Systems (RPAS) to conduct photographic surveys of seals.

Location

Antarctic Peninsula Region.

Dates of Permitted Activities

January 20, 2024–June 20, 2026.

Kimiko S. Bowens-Knox,

Program Analyst, Office of Polar Programs.

[FR Doc. 2023–27211 Filed 12–11–23; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

[Docket No.: NTSB–2021–0005, OMB Control No. 3147–0001]

Proposed Information Collection; Comment Request

AGENCY: National Transportation Safety Board (NTSB).

ACTION: 30-Day notice of information collection; submission to the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB).

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the National Transportation Safety Board (NTSB) offers the public and Federal agencies the opportunity to comment regarding the NTSB's intent to submit an Information Collection Request (ICR) seeking reinstatement, with change, of a previously-approved information collection (IC) for which approval for Office of Management and Budget (OMB) Control No. 3147–0001 has expired. The NTSB's 60-Day Notice, soliciting comments on the IC was published on May 4, 2021, and the NTSB has since revised the form in response to comments received as a result. The NTSB is issuing this 30-Day Notice, informing the public and Federal agencies to submit comments directly to the Office of Information & Regulatory Affairs (OIRA) regarding this ICR.

DATES: Submit comments to OIRA regarding this proposed collection of information by January 11, 2024.

ADDRESSES: Send comments directly to OIRA within 30 days of the publication of this Notice to *https://www.reginfo.gov/public/do/PRAMain.*

FOR FURTHER INFORMATION CONTACT: William (Tom) McMurry, Jr., General Counsel, (202) 314–6080, *rulemaking@ntsb.gov.*

SUPPLEMENTARY INFORMATION: The NTSB issues Form 6120.1: Pilot/Operator Aircraft Accident/Incident Report to a surviving pilot or operator involved in an aircraft accident or serious incident that the agency intends to investigate. The OMB control number (3147–0001) associated with this form has since expired. Because the agency wishes to continue using the form with revisions, the NTSB plans to submit an ICR seeking reinstatement, with change, of a previously-approved collection for which approval has expired.

As a result of the 60-Day Notice published on May 4, 2021, in the **Federal Register**, the NTSB has further revised the 6120.1 Form in response to comments received. The NTSB's responses to comments and the additional changes to the form have been submitted as an ICR package to OIRA for review.

This IC is necessary because the NTSB is statutorily required to promulgate regulations governing the notification and reporting of civil aircraft accidents; to investigate, determine, and report on the probable cause of each accident; and to make safety recommendations to prevent similar accidents from occurring in the future. 49 U.S.C. 1131, 1132. In coordination with the Federal Aviation Administration (FAA), the NTSB is also required to classify accident and safety data and publish such data on a periodic basis. 49 U.S.C. 1119. To fulfill these statutory obligations, the agency

must obtain detailed information about the pilot, crew, aircraft, and other circumstances related to an accident or incident at the start of each NTSB investigation. This information allows the agency to: (1) determine the appropriate course of action in an investigation; (2) make safety recommendations and facilitate safety improvements in the aviation industry; and (3) classify and publish accident and safety data.

Because the NTSB is the only Federal agency charged with investigating aircraft accidents and incidents, and has priority over all other agencies in this role, the NTSB will be the only agency distributing this accident and incident report form; thus, this NTSB form is not duplicative of any other IC. While under 49 U.S.C. 1132(c), the FAA participates in NTSB aircraft accident investigations and may oversee some investigative activities on behalf of the NTSB, the NTSB's priority over aircraft accident investigations ensures no duplicative ICs from pilots or operators.

Title of Collection: Pilot/Operator Aircraft Accident/Incident Report.

OMB Control Number: 3147–0001.

Form Number: NTSB 6120.1.

Type of Review: Reinstatement, with change, of a previously-approved collection for which approval has expired.

Affected Public: Individuals or households.

Total Estimated Annual Burden Hours: 1,400.

Estimated Average Burden Hours per Respondent: 1.

Frequency of Response: On occasion.

Total Estimated No. of Annual Responses: 1,400.

William T. McMurry, Jr.,

General Counsel.

[FR Doc. 2023–27153 Filed 12–11–23; 8:45 am]

BILLING CODE 7533–01–P

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Senior Executive Service Performance Review Board Membership

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Annual notice.

SUMMARY: Notice is given of the appointment of members to the Performance Review Board (PRB) of the Occupational Safety and Health Review Commission.

DATES: Membership is effective on December 12, 2023.

FOR FURTHER INFORMATION CONTACT: Angela D. Bridges, Supervisory Budget and Finance Specialist, U.S. Occupational Safety and Health Review Commission, 1120 20th Street NW—Ninth Floor, Washington, DC 20036–3457, (202) 606–5392.

SUPPLEMENTARY INFORMATION: The Review Commission, as required by 5 U.S.C. 4314(c)(1) through (5), has established a Senior Executive Service PRB. The PRB reviews and evaluates the initial appraisal of a senior executive's performance by the supervisor and makes recommendations to the Chairman of the Review Commission regarding performance ratings, performance awards, and pay-for-performance adjustments. Members of the PRB serve for a period of 24 months. In the case of an appraisal of a career appointee, more than half of the members shall consist of career appointees, pursuant to 5 U.S.C. 4314(c)(5). The names and titles of the PRB members are as follows:

- Gisile Goethe, Director, Office of Resource Management, Federal Retirement Thrift Investment Board;
- Peggy A. Gartner, Deputy Office Head, Office of Information and Resource Management, National Science Foundation;
- Sara Snyder, Regional Director and Chief Administrative Judge, U.S. Merit Systems Protection Board.

Cynthia L. Attwood,

Chairman.

[FR Doc. 2023–27194 Filed 12–11–23; 8:45 am]

BILLING CODE 7600–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2024–98 and CP2024–101]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* December 14, 2023.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the Market Dominant or the Competitive product list, or the modification of an existing product currently appearing on the Market Dominant or the Competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern Market Dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern Competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2024–98 and CP2024–101; *Filing Title:* USPS Request

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

to Add Priority Mail & USPS Ground Advantage Contract 131 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 6, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* December 14, 2023.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2023–27204 Filed 12–11–23; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99092; File No. SR–ISE–2023–31]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Legging Orders

December 6, 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 29, 2023, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') 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 the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Options 3, Section 7, Types of Orders and Order and Quote Protocols, and Options 3, Section 16, Complex Order Risk Protection.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/ise/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Options 3, Section 7, Types of Orders and Order and Quote Protocols, and Section 16, Complex Order Risk Protections. Each change is described below.

Options 3, Section 7

The Exchange proposes to expand the description of Legging Orders to add detail to describe the current System[3] functionality. The proposed amendments reflect the way the System handles Legging Orders today. The Exchange is not amending its current System functionality with respect to Legging Orders, rather, the proposed rule text is intended to add more detail to ISE Options 3, Section 7(k) to conform the level of detail to Nasdaq Phlx LLC (''Phlx'') Options 3, Sections 7(b)(10) and 14(f)(iii)(C), which describes Phlx's legging orders, as well as The Miami International Securities Exchange, LLC (''MIAX'') Rule 518(a)(10), which describes derived orders.

Generally, the Exchange proposes to amend the phrase ''regular limit order book'' in ISE Options 3, Section 7(k) to ''single-leg limit order book'' to conform the rule text to the manner in which that order book is described in ISE Options 3, Section 14, Complex Orders.

Currently, ISE Options 3, Section 7(k) provides,

Legging Orders. A legging order is a limit order on the regular limit order book that represents one side of a Complex Options Order that is to buy or sell an equal quantity of two options series resting on the Exchange's Complex Order Book. Legging orders are firm orders that are included in the Exchange's displayed best bid or offer.

(1) A legging order may be automatically generated for one leg of a Complex Options Order at a price: (i) that matches or improves upon the best displayed bid or offer on the regular limit order book; and (ii) at which the net price can be achieved when the other leg is executed against the best displayed bid or offer on the regular limit order book. A legging order will not be created at a price that locks or crosses the best bid or offer of another exchange or during a Posting Period in progress on the same side in the series, pursuant to Options 3, Section 15 regarding Acceptable Trade Range.

(2) A legging order is executed only after all other executable orders (including any non-displayed size) and quotes at the same price are executed in full. When a legging order is executed, the other portion of the Complex Options Order will be automatically executed against the displayed best bid or offer on the Exchange.

(3) A legging order is automatically removed from the regular limit order book if: (i) the price of the legging order is no longer at the displayed best bid or offer on the regular limit order book, (ii) execution of the legging order would no longer achieve the net price of the Complex Options Order when the other leg is executed against the best displayed bid or offer on the regular limit order book, (iii) the Complex Options Order is executed in full or in part on the Complex Order Book, or (iv) the Complex Options Order is cancelled or modified.

The Exchange proposes to amend the first paragraph of ISE Options 3, Section 7(k) to instead provide,

A Legging Order is a Limit Order on the single-leg limit order book in an individual series that represents one leg of a two-legged Complex Options Order that is to buy or sell an equal quantity of two options series resting on the Exchange's Complex Order Book. Legging Orders are firm orders that are included in the Exchange's displayed best bid or offer. Legging Orders are not routable and have a TIF of Day.

Generally, the Exchange proposes to capitalize the terms ''Legging Order'' and ''Limit Order'' throughout ISE Options 3, Section 7(k). The Exchange also proposes to amend the term ''one side of a Complex Options Order'' to more specifically state, ''one leg of a two-legged Complex Options Order.'' The Exchange also proposes to add a new sentence to the end of the paragraph which provides, ''Legging Orders are not routable and have a TIF of Day.'' Specifying that Legging Orders, which are an individual component of a Complex Options Order,[4] are also not

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''System'' means the electronic system operated by the Exchange that receives and disseminates quotes, executes orders and reports transactions. *See* Options 1, Section 1(a)(49).

[4] The terms ''Complex Options Order,'' ''Stock-Option Order,'' and ''Stock-Complex Order'' refer to orders for a Complex Options Strategy, Stock-Option Strategy, and Stock-Complex Strategy, respectively. The term ''Complex Order'' includes Complex Options Orders, Stock-Option Orders, and Stock-Complex Orders. *See* ISE Options 3, Section

routable will add detail to the description of the order type and make clear the current System handling. Similarly, specifying that Legging Orders will be Limit Orders [5] with a TIF of Day makes clear the way these orders are currently handled by the System. Legging Orders are not based on Member instruction and are intended to facilitate more interaction between the single-leg order book and the Complex Order Book, resulting in increased execution opportunities and better execution prices for Complex Orders and for orders resting on the single-leg order book. For this reason, Legging Orders do not route and have a TIF of Day to permit Members to interact with this order type. The Exchange believes the amended rule text proposed in the first paragraph of ISE Options 3, Section 7(k) more accurately describes a Legging Order and provides Members with greater information regarding this order type. Phlx's rules at Options 3, Section 7(b)(10) similarly describes a Legging Order as ''one leg of a two-legged Complex Options Order'' and specifies that Phlx's Legging Orders are not routable and have a time-in-force of Day.

The Exchange proposes to add a new second paragraph to ISE Options 3, Section 7(k) to specifically explain the way the System will generate a Legging Order. The Exchange proposes to state,

> The System will evaluate whether Legging Orders may be generated (1) when a Complex Options Order enters the Complex Order Book, and (2) after a time interval (to be determined by the Exchange, not to exceed 1 second) when the NBBO or Exchange best bid or offer in any component of a Complex Options Order changes. The Exchange may determine to limit the number of Legging Orders generated on an objective basis and may determine to remove existing Legging Orders in order to maintain a fair and orderly market in times of extreme volatility or uncertainty. Legging Orders are treated as having no Priority Customer capacity on the single-leg order book, regardless of being generated from Priority Customer Complex Options Orders.

The Exchange proposes to make clear that the System will evaluate whether Legging Orders may be generated, which occurs at the time a Complex Options Order enters the Complex Order Book or after a time interval (to be determined by the Exchange, not to exceed one second) [6] when the NBBO or Exchange best bid or offer in any component of a Complex Options Order changes. The Exchange proposes to state that it may determine to limit the number of Legging Orders generated on an objective basis and may determine to remove existing Legging Orders, and cease the creation of additional Legging Orders, to maintain a fair and orderly market in times of extreme volatility or uncertainty. Phlx has similar rule text in Phlx Options 3, Section 14(f)(iii)(C).[7] This limitation assists the Exchange in managing the number of Legging Orders generated to ensure that Legging Orders do not negatively impact the Exchange's System capacity and performance so that ISE may maintain a fair and orderly market in times of extreme volatility or uncertainty. Of note, the Exchange does not limit the generation of Legging Orders on the basis of the entering Member or the Member category of the order (*i.e.,* Professional or Priority Customer). Phlx similarly made this representation when it proposed to adopt rules related to the generation and execution of ''legging orders.'' [8]

Finally, the Exchange proposes to provide that Legging Orders are treated as having no Priority Customer capacity on the single leg order book, regardless of being generated from Priority Customer Complex Options Orders. A Legging Order is handled in the same manner as other orders on the single-leg order book except as otherwise provided in ISE Options 3, Section 7(k), and is executed only after all other executable orders and quotes at the same price are executed in full. When a Legging Order is executed, the other component of the Complex Order on the Complex Order Book will be automatically executed against the best bid or offer on the Exchange. The Exchange believes that a Legging Order, created for the execution of a Complex Order, should not be afforded priority over resting orders and quotes on the single-leg order book, and therefore has determined to protect the priority on the single-leg order book of such resting orders and quotes. MIAX similarly executes a derived order only after all other executable orders and quotes at the same price are executed in full.[9]

The Exchange proposes to amend ISE Options 3, Section 7(k)(1) and add the title ''Generation of Legging Orders'' to describe the contents of the paragraph. The Exchange proposes to amend the first sentence which currently states,

> A legging order may be automatically generated for one leg of a Complex Options Order at a price: (i) that matches or improves upon the best displayed bid or offer on the regular limit order book; and (ii) at which the net price can be achieved when the other leg is executed against the best displayed bid or offer on the regular limit order book. A legging order will not be created at a price that locks or crosses the best bid or offer of another exchange or during a Posting Period in progress on the same side in the series, pursuant to Options 3, Section 15 regarding Acceptable Trade Range.

The Exchange proposes to instead provide in Options 3, Section 7(k)(1),

> A Legging Order may be automatically generated for one or both leg(s) of a Complex Options Order resting on top of the Complex Order Book at a price: (i) that matches or improves upon the best displayed bid or offer on the single-leg limit order book; and (ii) at which the net price can be achieved when the other leg is executed against the best displayed bid or offer on the single-leg limit order book, excluding other Legging Orders. Legging Orders will be generated and executed in the minimum increment for that options series.

The Exchange is proposing to add ''or both leg(s)'' to the first sentence of ISE Options 3, Section 7(k)(1) to make clear a Legging Order may be generated for each leg of a two-legged Complex Order. The Exchange notes that Legging Orders may be generated for each leg of a two-legged options orders with the same quantity on both legs. Automatically generating Legging Orders, which will only be executed after all other executable interest at the same price (including non-displayed interest) is executed in full, will provide additional execution opportunities for Complex Orders, without negatively impacting any investors in the single-leg market. In fact, the generation of Legging Orders may enhance execution quality for investors in the single-leg market by improving the price and/or size of the ISE BBO and by providing additional execution opportunity for resting orders

14(a)(5). *See also* ISE Options 3, Section 14(a)(1)–(3).

[5] A Limit Order is an order to buy or sell a stated number of options contracts at a specified price or better. *See* ISE Options 3, Section 7(b).

[6] Today, the time interval is set to one hundred milliseconds.

[7] Phlx's rule states, in part, in Options 3, Section 14(f)(iii)(C) that, ''. . . The System will evaluate the CBOOK when a Complex Order enters the CBOOK and at a regular time interval, to be determined by the Exchange (which interval shall not exceed 1 second), following a change in the national best bid and/or offer ('NBBO') or Phlx best bid and/or offer ('PBBO') in any component of a Complex Order eligible to generate Legging Orders, to determine whether Legging Orders may be generated. The Exchange may determine to limit the number of Legging Orders generated on an objective basis and may determine to remove existing Legging Orders in order to maintain a fair and orderly market in times of extreme volatility or uncertainty.''

[8] *See* Securities Exchange Act Release No. 73545 (November 6, 2014), 79 FR 67498 (November 13, 2014) (SR–Phlx–2014–54) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Add a New Complex Order Process Called Legging Orders).

[9] *See* MIAX Rule 518(a)(10)(iv). *See also* Securities Exchange Act Release No. 79072 (October 7, 2016), 81 FR 71131 (October 14, 2016) (SR–MIAX–2016–26) (Order Approving a Proposed Rule Change to Adopt New Rules to Govern the Trading of Complex Orders).

on the single-leg order book. The generation of Legging Orders is fully compliant with all regulatory requirements. In particular, Legging Orders are firm orders that will be displayed at the ISE BBO. Also, a Legging Order will be automatically removed if it is no longer displayable at the ISE BBO or if the net price of the Complex Order can no longer be achieved. Finally, the generation of Legging Orders is limited in scope, as they may be generated only for Complex Options Orders with two legs. Additionally, as noted herein, the Exchange will closely manage and curtail the generation of Legging Orders to assure that they do not negatively impact system capacity and performance. Phlx's Legging Orders differ from ISE's Legging Orders in that, on Phlx, where two legging orders may be generated, only one of those can execute as part of the execution of a particular complex order.

The addition of ''resting on the top of the Complex Order Book'' in the first sentence of ISE Options 3, Section 7(k)(1) will make clear that the priority of orders in the Complex Order Book controls with respect to the generation of Legging Orders. The addition of this language is intended to provide greater detail with respect to the generation of Legging Order.

The Exchange proposes to amend the second sentence of ISE Options 3, Section 7(k)(1) to add ''excluding other Legging Orders'' to the end of the sentence to make clear that the price of a Legging Order is not considered in the BBO for purposes of determining whether the net price of a Complex Order could be achieved were it to generate a Legging Order. Below is an example of the manner in which the System calculates the net price and excludes a Legging Order.

Example #1

Assume

Leg A is quoted 4.20 (100) × 4.25 (100)
Leg B is quoted 4.00 (100) × 4.10 (100)
Leg C is quoted 3.80 (100) × 3.90 (100)
Create A–B strategy, ratio of 1. cBBO [10] for A–B is 0.10 × 0.25
Create B–C strategy, ratio of 1. cBBO for B–C is 0.10 × 0.30

Generation of Legging Orders:

Complex Order is entered to Buy A–B 10 @ 0.20
System generates Legging Order on leg A's bid @ 4.20
System generates Legging Order on Leg B's offer @ 4.05
Complex Order is entered to Buy B–C 10 @ 0.20
System generates Legging Order on leg B's bid @ 4.00
System generates Legging Order on Leg C's offer @ 3.90

Executions:

If Complex Order B–C sold leg C @ 3.90, it would have to buy leg B for 4.10 or less to satisfy its net price of 0.20. Given that a Legging Order is available on Leg B's offer at 4.05, this Legging Order on leg C would have been able to generate at 3.85 instead of 3.90 if the Legging Order at 4.05 was included in the calculation of possible net execution price, but since it is not, the Legging Order is generated at 3.90 on Leg C's offer instead of 3.85.[11]

The Exchange is removing the last sentence of ISE Options 3, Section 7(k)(1) [12] because that concept is being relocated to proposed new paragraph Options 3, Section 7(k)(2) as described below.

Finally, the Exchange proposes to add a sentence to ISE Options 3, Section 7(k)(1) which states, ''Legging Orders will be generated and executed in the minimum increment for that options series.'' Options 3, Section 3 describes the minimum increments for options traded on ISE. This rule makes clear that the minimum increment rule in ISE Options 3, Section 3 is applicable to Legging Orders. MIAX Rule 518(a)(10)(iii) similarly provides that ISE's derived orders will not be created at a price increment less than the minimum established by Rule 510.[13]

The Exchange proposes to add proposed new paragraph ISE Options 3, Section 7(k)(2) with the title ''When Legging Orders Will Not Be Generated'' to describe the contents of the paragraph. The Exchange proposes to state in proposed ISE Options 3, Section 7(k)(2),

When Legging Orders Will Not Be Generated. A Legging Order will not be generated: (i) at a price that locks or crosses the best bid or offer of another exchange, (ii) if there is a complex auction on either side in the Complex Options Strategy, or a single-leg auction on either side in any component of the Complex Options Strategy, or a Posting Period in progress on the same side in the series, pursuant to Options 3, Section 15 regarding Acceptable Trade Range; (iii) if the price of the leg(s) of a Complex Options Order is outside of the price limits described in Options 3, Section 16(a); (iv) if there is already a Legging Order in that options series on the same side of the market at the same price; or (v) for Complex Orders with 2 option legs, where both legs are buying or both legs are selling and both legs are calls or both legs are puts, as described in Options 3, Section 14(d)(3)(A); or (vi) if the Exchange has not opened; or a particular option series has not opened or such options series is halted.

This paragraph will describe when Legging Orders will not be generated.

First, a Legging Order will not be generated at a price that locks or crosses the best bid or offer of another exchange as stated in the last sentence of ISE Options 3, Section 7(k)(1). This concept is consistent with ISE Options 5, Sections 2 and 3 which describe order protection and locked and crossed markets.[14]

Second, the Exchange proposes to add a provision which states that a Legging Order will not be generated if there is a complex auction on either side in the Complex Options Strategy,[15] or a single-leg auction on either side in any component of the Complex Options Strategy, or a Posting Period in progress on the same side in the series, pursuant to ISE Options 3, Section 15 regarding Acceptable Trade Range (''ATR'').[16] The last part of this proposed sentence concerning ATR was relocated from the last sentence of ISE Options 3, Section 7(k)(1).

Third, the Exchange proposes to add a provision which states that a Legging Order will not be generated if the price of the leg(s) of a Complex Options Order is outside of the price limits described in ISE Options 3, Section 16(a). In the instance where a Legging Order generated is currently outside the price parameter (because the ABBO has moved), the System will remove the Legging Order that was outside the price

[10] The cBBO is the net best bid or offer comprised of the best bids and offers of the individual legs of the complex strategy.

[11] Furthermore, if a single-leg order arrives to buy for 3.90 on Leg C, the B–C strategy trades with the 4.10 offer of Leg B and the 4.05 Legging Order is removed.

[12] The last sentence of ISE Options 3, Section 7(k)(1) states, ''A legging order will not be created at a price that locks or crosses the best bid or offer of another exchange or during a Posting Period in progress on the same side in the series, pursuant to Options 3, Section 15 regarding Acceptable Trade Range.''

[13] MIAX Rule 510 specifies the minimum increments for options traded on MIAX.

[14] ISE Options 5 is incorporated by reference to ISE Options 5. Specifically, ISE Options 5, Section 2 and 3 apply to ISE.

[15] A Complex Options Strategy is the simultaneous purchase and/or sale of two or more different options series in the same underlying security, for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purpose of executing a particular investment strategy. Only those Complex Options Strategies with no more than the applicable number of legs, as determined by the Exchange on a class-by-class basis, are eligible for processing. *See* ISE Options 3, Section 14(a)(1).

[16] ATR is a risk protection which sets dynamic boundaries within which quotes and orders may trade. ATR is designed to guard the System from experiencing dramatic price swings by preventing the immediate execution of quotes and orders beyond the thresholds set by this risk protection.

limits pursuant to proposed ISE Options 3, Section 7(k)(2)(iii) and will attempt to re-generate a new Legging Order that is in the price limits described in ISE Options 3, Section 16(a) as proposed in ISE Options 3, Section 7(k)(4)(v). Today, ISE Options 3, Section 16(a) would restrict the execution of a Legging Order through price limits for Complex Orders. By adding the aforementioned rule text in proposed new paragraph Options 3, Section 7(k)(2), all limitations related to the generation of Legging Orders will be memorialized in Options 3, Section 7(k).[17]

Fourth, the Exchange proposes to add a provision which states that a Legging Order will not be generated if there is already a Legging Order in that options series on the same side of the market at the same price. This provision addresses a situation of overlapping Legging Orders. Phlx has a similar sentence in Phlx Options 3, Section 7(b)(10)(2).[18] The addition of this rule text will make clear an existing limitation to the generation of orders in ISE Options 3, Section 7(k).

Fifth, the Exchange proposes to add a provision which states that a Legging Order will not be generated for Complex Orders with two option legs, where both legs are buying or both legs are selling and both legs are calls or both legs are puts, as described in ISE Options 3, Section 14(d)(3)(A). This limitation is currently provided for in ISE Options 3, Section 14(d)(3)(A) and is being added to proposed new paragraph ISE Options 3, Section 7(k)(2) to provide Members with a complete list of when Legging Orders will not be generated in Options 3, Section 7(k).

Sixth, the Exchange proposes to add a provision which states that a Legging Order will not be generated if the Exchange has not opened; or a particular option series has not opened or such options series is halted. Since a complex strategy must be available for trading to generate a Legging Order, the failure of an options series that is a component of the complex strategy to open or a subsequent halt would cause Legging Orders not to generate. Phlx has a similar rule in Phlx Options 3, Section 7(b)(10)(1).[19]

The Exchange proposes to renumber current ISE Options 3, Section 7(k)(2) as (k)(3) and add the title ''Execution of Legging Orders'' to describe the contents of the paragraph. The Exchange proposes to state in proposed ISE Options 3, Section 7(k)(3) that,

> A Legging Order is executed only after all other executable orders (including any non-displayed size) and quotes at the same price are executed in full. When a Legging Order is executed, the other leg of the Complex Options Order will be automatically executed against the displayed best bid or offer on the Exchange and any other Legging Order not executed as part of the Complex Options Order will be removed. Two Legging Orders related to the same Complex Options Order can be generated, and both can execute as part of the execution of a particular Complex Options Order.

The Exchange's proposal, similar to Phlx Options 3, Section 7(b)(10)(3)describes current System handling when a Legging Order is executed and subsequently the other leg of the Complex Order will be automatically executed against the displayed best bid or offer on the Exchange, and any other Legging Order based on that Complex Order will be removed. The Exchange proposes to replace the word ''portion'' with ''leg'' to make the rule text more explicit. The Exchange proposes to add the phrase ''and any other Legging order not executed as part of the Complex Options Order will be removed'' to the end of the second sentence in proposed ISE Options 3, Section 7(k)(3). Phlx has a substantively similar sentence in Options 3, Section 7(b)(10)(3).[20] The addition of this phrase is intended to provide additional information regarding the treatment of unexecuted Legging Orders in ISE Options 3, Section 7(k). By way of example,

Example #2

Assume:

Complex A–B (ratio 1:1) strategy, ratio of 1 is created

MM Quote for leg A 4.20 (100) × 4.50 (100)

MM Quote for leg B 4.00 (100) × 4.10 (100)

A–B Derived BBO: 0.10 × 0.50

Complex Order to Buy A–B 10 @n net price of 0.45

System generates a Legging Order on leg A's bid for quantity of 10 @4 4.45

System generates a Legging Order leg B's offer for quantity of 10 @4 4.05

Single-leg order to sell 10 @4 4.45 on Leg A arrives

Execution:

Complex Order A–B Legging Order trades 10 with Single leg order on Leg A @4 4.45

Complex Order A–B other leg trades 10 with MM Quote on Leg B @4 4.00

Removal of Legging Order:

Legging Order that was generated for quantity of 10 on Leg B @4 4.05 is removed from the order book.

Next, the Exchange proposes to add a new sentence to ISE Options 3, Section 7(k)(3) which states, ''Two Legging Orders related to the same Complex Options Order can be generated, and both can execute as part of the execution of a particular Complex Options Order.'' As noted above, two Legging Orders related to the same Complex Options Order can be generated, and both can execute as part of the execution of a particular Complex Options Order. This behavior differs from Phlx where two legging orders may be generated, but only one of those can execute as part of the execution of a particular complex order. The Exchange believes that permitting both Legging Orders to execute as part of the execution of a particular Complex Options Order will allow more Complex Orders to execute while the price of the leg(s) will continue to be bounded by

[17] Phlx's rule similarly indicates that a Legging Order is subject to certain price parameters by stating that a Legging Order will not be generated if the price of the Complex Order is outside of the relevant ACE Parameter. *See* Phlx Options 3, Section 7(b)(10)(2). The ACE Parameter differs from the price limits described in ISE Options 3, Section 16(a). Phlx's ACE Parameter defines a price range outside of which a Complex Order will not be executed. The ACE Parameter is either a percentage or number as defined by Phlx and may be set at a different percentage or number for Complex Orders where one of the components is the underlying security. The ACE Parameter price range is based on the cNBBO at the time an order would be executed. A Complex Order to sell will not be executed at a price that is lower than the cNBBO bid by more than the ACE Parameter. A Complex Order to buy will not be executed at a price that is higher than the cNBBO offer by more than the ACE Parameter. A Complex Order or a portion of a Complex Order that cannot be executed within the ACE Parameter pursuant to this rule will be placed on the CBOOK. *See* Phlx Options 3, Section 16(b)(i).

[18] Phlx Options 3, Section 7(b)(10)(2)) states, in part, that Legging Order will not be generated if there is already a Legging Order in that series on the same side of the market at the same price (unless it has priority based on the participant type, under existing Exchange rules). The phrase ''unless it has priority based on the participant type, under existing Exchange rules'' is not being added to ISE's Rule as Options 3, Section 10 which describes allocation on the single-leg order book, because as stated in proposed ISE Options 3, Section 7(k), ''Legging Orders are treated as having no Priority Customer capacity on the single-leg order book, regardless of being generated from Priority Customer Complex Options Orders.''

[19] Phlx Options 3, Section 7(b)(10)(1) states, in part, that Legging Orders will not be generated if the Exchange or a particular option has not opened, is halted or is otherwise not available for trading. ISE believes that not opening and a halt are the two possible scenarios and therefore Phlx's rule and ISE's rule are substantively the same in this regard.

[20] Phlx Options 3, Section 7(b)(10)(3) states, ''A Legging Order is executed only after all other executable orders (including any non-displayed size) and quotes at the same price are executed in full. When a Legging Order is executed, the other leg of the Complex Order will be automatically executed against the displayed best bid or offer on the Exchange and any other Legging Order based on that Complex Order will be removed.'' ISE explicitly states ''not executed as part of the Complex Options Order'' where Phlx says ''based on that Complex Order.''

the price limits described in ISE Options 3, Section 16(a). By way of example,

Example #3

Assume:

Complex A–B strategy, ratio of 1 is created
Complex 2A–B strategy, ratio of 2:1 is created
MM Quote for leg A 4.20 (100) × 4.50 (100)
MM Quote for leg B 4.00 (100) × 4.10 (100)
Complex BBO for A–B is 0.10 × 0.50
Complex BBO for 2A–B is 4.30 × 5.00

Leg Generation:

Complex Order to Buy A–B 10 @0 0.45
System generates a Legging Order on leg A's bid @4 4.45
System generates a Legging Order on leg B's offer @4 4.05

Execution:

Complex Order to Sell 2A–B 5 @4 4.85
2A–B Order trades with Legging Order on leg A 10 @4 4.45
2A–B Order trades with the Legging Order on leg B 5 @4 4.05
A–B trades with MM Quote on leg B 5 @4 4.00

The Exchange proposes to renumber ISE Options 3, Section 7(k)(3) as (k)(4) and title the paragraph, ''Removal of Generated Legging Orders'' to describe the contents of the paragraph. This paragraph describes when a Legging Order is automatically removed from the single-leg limit order book. The Exchange proposes to add a clause to the end of proposed ISE Options 3, Section 7(k)(4)(i) so that the sentence would state, ''A Legging Order is automatically removed from the single-leg limit order book if: (i) the price of the Legging Order is no longer at the displayed best bid or offer on the single-leg limit order book *or is at a price that locks or crosses the best bid or offer of another exchange . . .*''(emphasis added). Current ISE Options 3, Section 7(k)(1) already notes that a Legging Order will not be created at a price that locks or crosses the best bid or offer of another exchange. Adding the same rule text to proposed ISE Options 3, Section 7(k)(4) will make clear that a Legging Order that locks or crosses an away market would be removed from the limit order book.

The Exchange proposes to add a clause to proposed ISE Options 3, Section 7(k)(4)(ii) to provide that ''A Legging Order is automatically removed from the single-leg limit order book if. . . (ii) execution of the Legging Order would no longer achieve that net price of the Complex Options Order when the other leg is executed against the best displayed bid or offer on the single-leg limit order book, *excluding other Legging Orders*'' (emphasis added). Phlx has a similar sentence in Options 3, Section 7(b)(10)(4).[21] A Legging Order is removed if the BBO on the other leg worsens such that the Complex Order limit price could no longer be achieved by trading with the quote, even if it could be achieved by trading with a Legging Order generated by another Complex Order. The Exchange would not rely solely on the price of another Legging Order when calculating the net price of the Complex Options Order for purposes of determining at which price a Legging Order will execute. In the below example this point is illustrated in that the Legging Order could not rely on the 4.05 offer on Leg B derived from the other Legging Order, rather it must rely on the 4.10 offer on Leg B derived from the quote.

Example #4

Assume:

Leg A is quoted 4.20 (100) × 4.25 (100)
Leg B is quoted 4.00 (100) × 4.05 (100)
Leg C is quoted 3.80 (100) × 3.90 (100)
Create A–B strategy, ratio of 1 with a cBBO for A–B is 0.15 × 0.25
Create B–C strategy, ratio of 1 with a cBBO for B–C is 0.10 × 0.30

Generation of Legging Orders:

Complex Order is entered to Buy B–C (Buy B, Sell C) 10 @0 0.20
System generates Legging Orders on Leg B's bid @4.00 & Leg C's offer @3 3.85.
Complex Order is entered to Buy A–B (Buy A, Sell B) 10 @0 0.20
System generates Legging Orders on Leg A's bid @4 4.20 & Leg B's offer @4 4.05

Removal of Legging Order:

Market Maker updates their quote for Leg B with a worsened offer: 4.00 (100) × 4.10 (100)

Even though the displayed best offer for Leg B did not change in price, it is derived from a Legging Order which is excluded from the System's calculations in determining whether the net price of this Complex Order can be achieved if its Legging Order trades. The Legging Order at 3.85 on Leg C can no longer achieve the Complex Order's net price were it to execute in addition to the quote for Leg B. The System will remove the Legging Order at 3.85 on Leg C and will regenerate a new Legging Order on Leg C at 3.90 and this would allow the Legging Order to achieve the net price of the Complex Order if it trades along with the quote on Leg B.

The Exchange proposes to add a new section ''(v)'' to proposed ISE Options 3, Section 7(k)(4) which states, ''A Legging Order is automatically removed from the single-leg limit order book if. . . (v) the price of the leg(s) of a Complex Options Order is outside of the price limits described in current ISE Options 3, Section 16(a).'' This limitation is currently described in ISE Options 3, Section 16(a) and is being added to this order type to complete the list of cases where a Legging Order would be removed from the order book in Options 3, Section 7(k). Phlx has similar rule text in Options 3, Section 7(b)(10)(4).[22]

The Exchange proposes to add new section ''(vi)'' to proposed ISE Options 3, Section 7(k)(4) which states, ''A Legging Order is automatically removed from the single-leg limit order book if . . .(vi) the System receives a complex auction on either side in the Complex Options Strategy, or the System receives a single-leg auction on either side in any component of the Complex Options Strategy.'' Phlx has similar language in Options 3, Section 7(b)(10)(4).[23] As noted above, the Exchange believes from a System processing and user acceptance standpoint, the best practice is to remove the System-generated Legging Order from the order book during the course of the auction, as that time is minimal, then the System can attempt to re-generate a Legging Order once the auction has concluded.

Finally, the Exchange proposes to add new section ''(vii)'' to proposed ISE Options 3, Section 7(k)(4) which states, ''A Legging Order is automatically removed from the single-leg limit order book if . . . (vii) a Legging Order is generated by a different Complex Options Order in the same leg at a better price or the same price for a participant with a higher price priority.'' As noted in ISE Options 3, Section 7(k)(1), a Legging Order may be automatically generated at a price that matches or improves upon the best displayed bid or offer on the single-leg limit order book. The System removes the Legging Order because it would have been at an inferior price. Phlx Options 3, Section 7(b)(10)(4)has similar language.[24]

[21] Phlx Options 3, Section 7(b)(10)(4)provides, ''if execution of the Legging Order would no longer achieve the net price of the Complex Order when the other leg is executed against the Exchange's best displayed bid or offer on the regular Limit Order book (other than another Legging Order).'' This language is substantively the same as ISE's proposed rule text.

[22] Phlx Options 3, Section 7(b)(10)(4)states that ''A Legging Order is automatically removed from the regular order book: . . . (v) if the price of the Complex Order is outside the ACE Parameter of paragraph (i).'' As noted above, Phlx and ISE have different price parameters.

[23] *Id.*

[24] Phlx Options 3, Section 7(b)(10)(4) states that ''A Legging Order is automatically removed from the regular order book: . . . (vii) if a Legging Order

As revised, the rule text proposed in ISE Options 3, Section 7(k)(4) is intended to cover all circumstances where a Legging Order would be automatically removed from the single-leg limit order.

Options 3, Section 16

The Exchange proposes to amend the language in ISE Options 3, Section 16(a) related to price limits for Complex Orders. As provided in ISE Options 3, Section 16(a)the legs of a complex strategy may be executed at prices that are inferior to the prices available on other exchanges trading the same options series. Notwithstanding the foregoing, the System will not permit any leg of a complex strategy to trade through the NBBO for the series or any stock component by a configurable amount calculated as the lesser of (i) an absolute amount not to exceed $0.10, and (ii) a percentage of the NBBO not to exceed 500%, as determined by the Exchange on a class, series or underlying basis. A Member can also include an instruction on a Complex Order that each leg of the Complex Order is to be executed only at a price that is equal to or better than the NBBO *on the opposite side* for the options series or any stock component, as applicable (''Do-Not-Trade-Through'' or ''DNTT''). The addition of the words ''on the opposite side'' is intended to make clear the manner in which the System will handle a DNTT instruction. That is, the System will check that the price is equal to or better than the NBBO on the opposite side of the options series or any stock component.

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act,[25] in general, and furthers the objectives of section 6(b)(5) of the Act,[26] in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

Options 3, Section 7

The Exchange's proposal to amend ISE Options 3, Section 7(k), Legging Orders, is consistent with the Act because the proposal expands the description of Legging Orders to describe in more detail the current legging functionality, thereby increasing transparency with respect to this order type. The proposed amendments reflect the way Legging Orders work today. The Exchange is not amending its System functionality with respect to Legging Orders, rather, the proposed rule text is intended to be more descriptive and conform the level of detail in the order type to Phlx Options 3, Section 7(b)(10)which describes details of Phlx's legging orders and MIAX Rule 518(a)(10), which describes derived orders.

Specifying that Legging Orders, which are an individual component of a Complex Options Order, are ''one leg of a two-legged Complex Options Order'' and are not routable in the first paragraph of ISE Options 3, Section 7(k) is consistent with the Act because these terms better describe a Legging Order. Similarly, specifying that Legging Orders will be Limit Orders with a TIF of Day makes clear the way these orders are handled by the System. Legging Orders are not based on Member instruction and are intended to facilitate more interaction between the single-leg order book and the Complex Order Book, resulting in increased execution opportunities and better execution prices for Complex Orders and for orders resting on the single-leg order book. For this reason, Legging Orders do not route and have a TIF of Day to permit Members to interact with this order type. The Exchange believes the amended rule text more accurately describes a Legging Order and makes clear to Members the behavior of Legging Orders. Also, capitalizing the terms ''Legging Order'' and ''Limit Order'' and referring to a ''single-leg'' order book throughout ISE Options 3, Section 7(k) conforms terms with those of ISE Options 3, Section 14, Complex Orders.

The proposed text in the new second paragraph of ISE Options 3, Section 7(k) makes clear the current System processing for Legging Orders. Specifically, the proposed rule text makes clear that the System will evaluate whether Legging Orders may be generated, which occurs at the time a Complex Options Order enters the Complex Order Book or after a time interval (to be determined by the Exchange, not to exceed one second) [27] when the NBBO or Exchange best bid or offer in any component of a Complex Options Order changes. Further, the Exchange proposes to state that it may determine to limit the number of Legging Orders generated on an objective basis and may determine to remove existing Legging Orders, and cease the creation of additional Legging Orders, to maintain a fair and orderly market in times of extreme volatility or uncertainty. Phlx has similar rule text in Phlx Options 3, Section 14(f)(iii)(C).[28] The proposed limitation is consistent with the Act because it assists the Exchange in managing the number of Legging Orders generated to ensure that Legging Orders do not negatively impact the Exchange's System capacity and performance so that ISE may maintain a fair and orderly market in times of extreme volatility or uncertainty. Of note, the Exchange does not limit the generation of Legging Orders on the basis of the entering Member or the Member category of the order (*i.e.,* Professional or Priority Customer). The Exchange proposes to limit the number of Legging Orders, remove existing Legging Orders, and cease creation of additional Legging Orders, in order to permit the Exchange to maintain a fair and orderly market in times of extreme volatility or uncertainty. This discretion is consistent with the Act because it assists the Exchange in managing the number of Legging Orders generated to ensure that Legging Orders do not negatively impact the Exchange's System capacity and performance.

The Exchange's proposal to provide that Legging Orders are treated as having no Priority Customer capacity on the single leg order book, regardless of being generated from Priority Customer Complex Options Orders is consistent with the Act and the protection of investor and the public interest. A Legging Order is handled in the same manner as other orders on the single-leg order book except as otherwise provided in ISE Options 3, Section 7(k), and is executed only after all other executable orders and quotes at the same price are executed in full. When a Legging Order is executed, the other component of the Complex Order on the Complex Order Book will be automatically executed against the best bid or offer on the Exchange. The Exchange believes that a Legging Order, created for the execution of a Complex Order, should not be

is generated by a different Complex Order in the same leg at a better price or the same price for a participant with a higher price priority. . .''. While Phlx's Options 3, Section 14 has priority overlays for different market participants within its allocation model, whereas ISE does not have similar priority overlays and the remainder of the language is not necessary.

[25] 15 U.S.C. 78f(b).

[26] 15 U.S.C. 78f(b)(5).

[27] Today, the time interval is set to one hundred milliseconds.

[28] Phlx's rule states, in part, in Options 3, Section 14(f)(iii)(C) that, ''. . .The System will evaluate the CBOOK when a Complex Order enters the CBOOK and at a regular time interval, to be determined by the Exchange (which interval shall not exceed 1 second), following a change in the national best bid and/or offer (''NBBO'') or Phlx best bid and/or offer (''PBBO'') in any component of a Complex Order eligible to generate Legging Orders, to determine whether Legging Orders may be generated. The Exchange may determine to limit the number of Legging Orders generated on an objective basis and may determine to remove existing Legging Orders in order to maintain a fair and orderly market in times of extreme volatility or uncertainty.''

afforded priority over resting orders and quotes on the single-leg order book, and therefore has determined to protect the priority on the single-leg order book of such resting orders and quotes. MIAX similarly executes a derived order only after all other executable orders and quotes at the same price are executed in full.[29]

The Exchange's proposal to amend ISE Options 3, Section 7(k)(1) to make clear a Legging Order may be generated for each leg of a two-legged Complex Order is consistent with the Act. Legging Orders may be generated for each leg of a two-legged options orders with the same quantity on both legs. Automatically generating Legging Orders promotes just and equitable principles of trade because these orders will only be executed after all other executable interest at the same price (including non-displayed interest) is executed in full. This behavior is consistent with the Act because it will provide additional execution opportunities for Complex Orders, without negatively impacting any investors in the single-leg market. In fact, the generation of Legging Orders may enhance execution quality for investors in the single-leg market by improving the price and/or size of the ISE BBO and by providing additional execution opportunity for resting orders on the single-leg order book. The generation of Legging Orders is fully compliant with all regulatory requirements. In particular, Legging Orders are firm orders that will be displayed at the ISE BBO. Also, a Legging Order will be automatically removed if it is no longer displayable at the ISE BBO or if the net price of the Complex Order can no longer be achieved. Finally, the generation of Legging Orders is limited in scope, as they may be generated only for Complex Options Orders with two legs. Additionally, as noted herein, the Exchange will closely manage and curtail the generation of Legging Orders to assure that they do not negatively impact system capacity and performance. Phlx's Legging Orders differ from ISE's Legging Orders in that, on Phlx, two legging orders may be generated, but only one of those can execute as part of the execution of a particular complex order.

The addition of ''resting on the top of the Complex Order Book'' in the first sentence of ISE Options 3, Section 7(k)(1) is consistent with the Act because it is consistent with existing Legging Order functionality that considers the best price on Phlx's order book. This addition will make clear that the priority of orders in the Complex Order Book controls with respect to the generation of Legging Orders.

The Exchange's proposal to amend the second sentence of ISE Options 3, Section 7(k)(1) to add ''excluding other Legging Orders'' to the end of the sentence is consistent with the Act because it makes clear that the price of a Legging Order is not considered in the BBO for purposes of determining whether the net price of a Complex Order could be achieved were it to generate a Legging Order.

Finally, the Exchange's proposal to add a sentence to ISE Options 3, Section 7(k)(1) which states, ''Legging Orders will be generated and executed in the minimum increment for that options series'' is consistent with the Act because ISE Options 3, Section 3 describes the minimum increments for options traded on ISE. Adding this rule text will make clear that the minimum increment rule in Options 3, Section 3 is applicable to Legging Orders. MIAX Rule 518(a)(10)(iii) similarly provides that ISE's derived orders will not be created at a price increment less than the minimum established by Rule 510.[30]

Amending proposed new paragraph ISE Options 3, Section 7(k)(2) to note that a Legging Order will not be generated at a price that locks or crosses the best bid or offer of another exchange is already provided for in the last sentence of current Options 3, Section 7(k)(1). This concept is consistent with the Act in that the Exchange will not trade through away markets as specified in Options 5, Sections 2 and 3 which describe order protection and locked and crossed markets rules.

Adding a provision to proposed new paragraph ISE Options 3, Section 7(k)(2) which states that a Legging Order will not be generated if there is a complex auction on either side in the Complex Options Strategy, or a single-leg auction on either side in any component of the Complex Options Strategy, or a Posting Period in progress on the same side in the series, pursuant to Options 3, Section 15 regarding ATR is consistent with the Act. The Exchange believes from a System processing and user acceptance standpoint, the best practice is to wait for an auction in that options series to be complete, or for the ATR Posting Period to complete, as that time is minimal. Phlx's legging order rule in Options 3, Section 7(b)(10)(2)has the same restriction as proposed to be added to ISE's Legging Orders rule.[31]

Adding a provision to proposed new paragraph ISE Options 3, Section 7(k)(2) which states that a Legging Order will not be generated if the price of the leg(s) of a Complex Options Order is outside of the price limits described in Options 3, Section 16(a) is consistent with the Act. Today, ISE Options 3, Section 16(a) would restrict the generation of a Legging Order through price limits for Complex Orders, by adding this rule text in Options 3, Section 7(k)(2) all limitations related to the generation of Legging Orders will be memorialized in Options 3, Section 7(k).[32]

Adding a provision to proposed new paragraph ISE Options 3, Section 7(k)(2) which states that a Legging Order will not be generated if there is already a Legging Order in that options series on the same side of the market at the same price is consistent with the Act. This provision addresses a situation of overlapping Legging Orders and Legging Order dependencies in other components. Phlx has a similar sentence in Phlx Options 3, Section 7(b)(10)(2). Of note, the phrase ''unless it has priority based on the participant type, under existing Exchange rules'' from Phlx Options 3, Section 7(b)(10)(2) is not being added to ISE's Rule as Options 3, Section 10 which describes allocation on the single-leg order book, because as stated in proposed ISE Options 3, Section 7(k), ''Legging Orders are treated as having no Priority Customer capacity on the single-leg order book, regardless of being generated from Priority Customer Complex Options Orders.'' The addition of this rule text will make clear an existing limitation to the generation of orders in Options 3, Section 7(k).

Adding a provision to proposed new paragraph ISE Options 3, Section 7(k)(2) which states that a Legging Order will

[29] *See* MIAX Rule 518(a)(10)(iv). *See also* Securities Exchange Act Release No. 79072 (October 7, 2016), 81 FR 71131 (October 14, 2016) (SR–MIAX–2016–26) (Order Approving a Proposed Rule Change to Adopt New Rules to Govern the Trading of Complex Orders).

[30] MIAX Rule 510 specifies the minimum increments for options traded on MIAX.

[31] Phlx Options 3, Section 7(b)(1)(2) provides that ''A Legging Order will not be created . . .''(ii) if there is an auction on either side or a Posting Period under Options 3, Section 15 regarding Acceptable Trade Range on the same side in progress in the series.'' Phlx's rules describe an auction on either side of the Legging Order while ISE's auction breaks down the auction into either a complex auction or single-leg auction. Of note, Phlx's Acceptable Trade Range rule has a Posting Period described in Options 3, Section 15. ISE does have an Acceptable Trade Range rule as well in Options 3, Section 15, but that rule differs from Phlx as there is no Posting Period.

[32] Phlx's rule similarly indicates that a Legging Order is subject to certain price parameters by stating that a Legging Order will not be generated if the price of the Complex Order is outside of the ACE Parameter of paragraph in subparagraph (i) of Options 3, Section 14. The ACE Parameter differs from the price limits described in ISE Options 3, Section 16(a).

not be generated for Complex Orders with two option legs, where both legs are buying or both legs are selling and both legs are calls or both legs are puts, as described in Options 3, Section 14(d)(3)(A) is consistent with the Act. This limitation is already provided for in current ISE Options 3, section 14(d)(3)(A) and is being added to proposed new paragraph Options 3, Section 7(k)(2) to provide Members with a complete list of when Legging Orders will not be generated in Options 3, Section 7(k).

Adding a provision to proposed new paragraph ISE Options 3, Section 7(k)(2) which states that a Legging Order will not be generated if the Exchange has not opened; or a particular option series has not opened or such options series is halted is consistent with the Act. Since a complex strategy must be available for trading to generate a Legging Order, the failure of an options series that is a component of the complex strategy to open or a subsequent halt would cause Legging Orders not to generate. Phlx has a similar rule in Phlx Options 3, Section 7(b)(10)(1).

Amending proposed ISE Options 3. Section 7(k)(3), similar to Phlx Options 3, Section 7(b)(10)(3)to describe current System handling when a Legging Order is executed and subsequently the other leg of the Complex Order is automatically executed against the displayed best bid or offer on the Exchange, and, therefore, any other Legging Order based on that Complex Order is removed is consistent with the Act. This example demonstrates that the Exchange will execute against the best bid or offer on the Exchange and will remove Legging Orders. The proposal to replace the word ''portion'' with ''leg'' will make the rule text more explicit. Adding the phrase ''and any other Legging order not executed as part of the Complex Options Order will be removed'' to the end of the second sentence in proposed Options 3, Section 7(k)(3) is consistent with the Act because the phrase will provide additional information regarding the treatment of unexecuted Legging Orders in Options 3, Section 7(k). Phlx has a substantively similar sentence in Options 3, Section 7(b)(10)(3).[33]

[33] Phlx Options 3, Section 7(b)(10)(3) states, ''A Legging Order is executed only after all other executable orders (including any non-displayed size) and quotes at the same price are executed in full. When a Legging Order is executed, the other leg of the Complex Order will be automatically executed against the displayed best bid or offer on the Exchange and any other Legging Order based on that Complex Order will be removed.'' ISE explicitly states ''not executed as part of the Complex Options Order'' where Phlx says ''based on that Complex Order.''

Amending proposed ISE Options 3, Section 7(k)(3) to add a new sentence to Options 3, Section 7(k)(3) which states, ''Two Legging Orders related to the same Complex Options Order can be generated, and both can execute as part of the execution of a particular Complex Options Order'' is consistent with the Act. As noted above, two Legging Orders related to the same Complex Options Order can be generated, and both can execute as part of the execution of a particular Complex Options Order. This behavior differs from Phlx where two legging orders may be generated, but only one of those can execute as part of the execution of a particular complex order. The Exchange believes that permitting both Legging Orders to execute as part of the execution of a particular Complex Options Order will allow more Complex Orders to execute while the price of the leg(s) will continue to be bounded by the price limits described in ISE Options 3, Section 16(a).

Amending proposed ISE Options 3, Section 7(k)(4)(i) to state, ''A Legging Order is automatically removed from the single-leg limit order book if: (i) the price of the Legging Order is no longer at the displayed best bid or offer on the single-leg limit order book *or is at a price that locks or crosses the best bid or offer of another exchange . . .*'' (emphasis added) is consistent with the Act. Current Options 3, Section 7(k)(2) already notes that a Legging Order will not be created at a price that locks or crosses the best bid or offer of another exchange. Adding the same rule text to proposed Options 3, Section 7(k)(4) will make clear that a Legging Order that locks or crosses an away market would be removed from the limit order book.

Amending proposed ISE Options 3, Section 7(k)(4)(ii) to add a clause to current Options 3, Section 7(k)(3) at (ii) to provide that ''A Legging Order is automatically removed from the single-leg limit order book if . . . (ii) execution of the Legging Order would no longer achieve that net price of the Complex Options Order when the other leg is executed against the best displayed bid or offer on the single-leg limit order book, *excluding other Legging Orders*'' (emphasis added) is consistent with the Act. A Legging Order is removed if the BBO on the other leg worsens such that the Complex Order limit price could no longer be achieved by trading with the quote, even if it could be achieved by trading with a Legging Order generated by another Complex Order. Phlx has a similar sentence in Options 3, Section 7(b)(10)(4).

Amending proposed ISE Options 3, Section 7(k)(4) to add a new section ''(v)'' to this paragraph which states, ''A Legging Order is automatically removed from the single-leg limit order book if . . . (v) the price of the leg(s) of a Complex Options Order is outside of the price limits described in current Options 3, Section 16(a)'' is consistent with the Act. This limitation is currently described in ISE Options 3, Section 16(a) and is being added to this order type to complete the list of cases where a Legging Order would be removed from the order book in Options 3, Section 7(k). Phlx has similar rule text in Options 3, Section 7(b)(10)(4).

Amending proposed ISE Options 3, Section 7(k)(4) to add a new section ''(vi)'' to this paragraph which states, ''A Legging Order is automatically removed from the single-leg limit order book if . . . (vi) the System receives a complex auction on either side in the Complex Options Strategy, or the System receives a single-leg auction on either side in any component of the Complex Options Strategy'' is consistent with the Act. As noted above, the Exchange believes from a System processing and user acceptance standpoint, the best practice is to remove the System-generated Legging Order from the order book during the course of the auction, as that time is minimal, then the System can attempt to re-generate a Legging Order once the auction has concluded. Phlx has similar language in Options 3, Section 7(b)(10)(4).

Amending proposed ISE Options 3, Section 7(k)(4) to add a new section ''(vii)'' to this paragraph which states, ''A Legging Order is automatically removed from the single-leg limit order book if . . . (vii) a Legging Order is generated by a different Complex Options Order in the same leg at a better price or the same price for a participant with a higher price priority.'' As noted in proposed Options 3, Section 7(k)(1), a Legging Order may be automatically generated at a price that matches or improves upon the best displayed bid or offer on the single-leg limit order book. The System removes the Legging Order because it would have been at an inferior price. Phlx Options 3, Section 7(b)(10)(4) has similar language.

Options 3, Section 16

The Exchange's proposal to amend the language in ISE Options 3, Section 16(a) related to price limits for Complex Orders is consistent with the Act and protects investors and the general public by ensuring that the DNTT instruction causes a Complex Order is to be executed only at a price that is equal to or better than the NBBO on the opposite side for the options series or any stock component. The proposed rule text

makes transparent the manner in which the System is currently handling the DNTT instruction.

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 not necessary or appropriate in furtherance of the purposes of the Act.

Options 3, Section 7

The Exchange's proposal to amend ISE Options 3, Section 7(k), Legging Orders, does not impose an intra-market burden on competition because all market participants may interact with Legging Orders on the single-leg order book. The Exchange's proposal to amend ISE Options 3, Section 7(k), Legging Orders, does not impose an inter-market burden on competition because other options exchanges may offer Legging Orders with similar functionality. Enhancing the description of the Legging Orders functionality will allow ISE to compete effectively with other options exchanges that offer similar functionality.

The Exchange's proposal to limit the number of Legging Orders and the ability to remove existing Legging Orders does not impose an intra-market burden on competition because the functionality will permit the Exchange to maintain a fair and orderly market in times of extreme volatility or uncertainty. Further, the Exchange does not limit the generation of Legging Orders on the basis of the entering Member or the Member category of the order (*i.e.,* Professional or Priority Customer). The Exchange's proposal to limit the number of Legging Orders and the ability to remove existing Legging Orders does not impose an inter-market burden on competition because this discretion is consistent with the treatment of Legging Orders on other options exchanges.[34]

Options 3, Section 16

The Exchange's proposal to amend the language in ISE Options 3, Section 16(a) related to price limits for Complex Orders to specify that a Complex Order must be executed at a price that is equal to or better than the NBBO *on the opposite side* for the options series or any stock component does not impose an intra-market burden on competition because the System applies this price check to all Members executing Complex Orders in the same manner. The Exchange's proposal to amend the language in ISE Options 3, Section 16(a) does not impose an inter-market burden on competition because any options exchange could offer similar functionality.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act[35] and Rule 19b–4(f)(6) thereunder.[36] Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A)(iii) of the Act[37] and subparagraph (f)(6) of Rule 19b–4 thereunder.[38]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[39] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[40] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the Exchange may immediately update its rules to provide greater detail with respect to the generation, execution, and removal of Legging Orders. The Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[41]

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–ISE–2023–31 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–ISE–2023–31. 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

[34] *See* Phlx Options 3, Section 14(f)(iii)(C).

[35] 15 U.S.C. 78s(b)(3)(A)(iii).

[36] 17 CFR 240.19b–4(f)(6).

[37] 15 U.S.C. 78s(b)(3)(A)(iii).

[38] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[39] 17 CFR 240.19b–4(f)(6).

[40] 17 CFR 240.19b–4(f)(6)(iii).

[41] 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).

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–ISE–2023–31 and should be submitted on or before January 2, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[42]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–27163 Filed 12–11–23; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99100; File No. SR–MEMX–2023–32]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Fee Schedule

December 6, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on November 30, 2023, MEMX LLC (''MEMX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposed rule change to amend the Exchange's fee schedule applicable to Members[3] (the ''Fee Schedule'') pursuant to Exchange Rules 15.1(a) and (c). The Exchange proposes to implement the changes to the Fee Schedule pursuant to this proposal on December 1, 2023. The text of the proposed rule change is provided in Exhibit 5.

II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Fee Schedule to remove an expired criteria under Liquidity Provision Tier 5.

The Exchange currently provides a base rebate of $0.0015 per share for executions of orders in securities priced at or above $1.00 per share that add displayed liquidity to the Exchange (such orders, ''Added Displayed Volume'').[4] The Exchange also currently offers Liquidity Provision Tiers 1–5 under which a Member may receive an enhanced rebate for executions of Added Displayed Volume by achieving the corresponding required volume criteria for each such tier. With respect to Liquidity Provision Tier 5, the Exchange currently provides an enhanced rebate of $0.0025 per share for executions of Added Displayed Volume for Members that qualify for such tier by achieving: (1) an ADAV[5] that is equal to or greater than 0.06% of the TCV;[6] or (2) a Displayed ADAV that is equal to or greater than 0.007% of the TCV and a Step-Up Displayed ADAV[7] from May 2023 that is equal to or greater than 50% of the Member's May 2023 Displayed ADAV of the TCV.[8] Additionally, the Fee Schedule indicates that criteria (2) of Liquidity Provision Tier 5 will expire no later than November 30, 2023. Now, given the expiration of criteria (2) of Liquidity Provision Tier 5, it is necessary to modify the Fee Schedule to delete this criteria (2) as well as the note under the Liquidity Provision Tiers pricing table that indicates its expiration, as both are no longer applicable and otherwise obsolete. The Exchange is not proposing to make any changes to this or any other Liquidity Provision Tier, and as such, Liquidity Provision Tier 5 will now consist solely of the previously existing criteria (1).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[9] in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,[10] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed change to modify Liquidity Provision Tier 5 to remove the expired criteria (2) criteria [sic] is reasonable because there was an expiration date associated with this criteria that has now passed. As such, this criteria is no longer available under this tier, and should not remain on the Fee Schedule. The Exchange believes that the enhanced rebate for executions of Added Displayed Volume provided under Liquidity Provision Tier 5, which the Exchange is not proposing to change with this proposal, remains commensurate with the required criteria under such tier, as modified, and is reasonably related to the market quality benefits that such tier is designed to achieve. The Exchange also believes the enhanced rebate for executions of Added Displayed Volume provided under Liquidity Provision Tier 5 remains equitable and not unfairly discriminatory, as such enhanced rebate will continue to apply equally to all qualifying Members.

For the reasons discussed above, the Exchange submits that the proposal

[42] 17 CFR 200.30–3(a)(12), (59).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Rule 1.5(p).

[4] The base rebate for executions of Added Displayed Volume is referred to by the Exchange on the Fee Schedule under the existing description ''Added displayed volume'' with a Fee Code of ''B'', ''D'' or ''J'', as applicable, on execution reports.

[5] As set forth on the Fee Schedule, ''ADAV'' means the average daily added volume calculated as the number of shares added per day, which is calculated on a monthly basis.

[6] As set forth on the Fee Schedule, ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

[7] As set forth on the Fee Schedule, ''Step Up Displayed ADAV'' means Displayed ADAV in the relevant baseline month subtracted from current Displayed ADAV.

[8] The proposed pricing for Liquidity Provision Tier 5 is referred to by the Exchange on the Fee Schedule under the existing description ''Added displayed volume, Liquidity Provision Tier 5'' with a Fee Code of ''B5'', ''D5'' or ''J5'', as applicable, to be provided by the Exchange on the monthly invoices provided to Members.

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(4) and (5).

satisfies the requirements of Sections 6(b)(4) and 6(b)(5) of the Act [11] in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities and is not designed to unfairly discriminate between customers, issuers, brokers, or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[12] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that the proposed rule change would not place any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather is designed to enhance the clarity of the Fee Schedule and alleviate possible Member confusion that may arise from the inclusion of obsolete language.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [13] and Rule 19b–4(f)(2) [14] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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–MEMX–2023–32 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–MEMX–2023–32. 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–MEMX–2023–32 and should be submitted on or before January 2, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–27158 Filed 12–11–23; 8:45 am]

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[11] 15 U.S.C. 78f(b)(4) and (5).

[12] 15 U.S.C. 78f(b)(8).

[13] 15 U.S.C. 78s(b)(3)(A)(ii).

[14] 17 CFR 240.19b–4(f)(2).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99093; File No. SR–MRX–2023–22]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Legging Orders

December 6, 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 28, 2023, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') 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 the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Options 3, Section 7, Types of Orders and Order and Quote Protocols, and Options 3, Section 16, Complex Order Risk Protection.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/mrx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Options 3, Section 7, Types of Orders

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

and Order and Quote Protocols, and Section 16, Complex Order Risk Protections. Each change is described below.

Options 3, Section 7

The Exchange proposes to expand the description of Legging Orders to add detail to describe the current System [3] functionality. The proposed amendments reflect the way the System handles Legging Orders today. The Exchange is not amending its current System functionality with respect to Legging Orders, rather, the proposed rule text is intended to add more detail to MRX Options 3, Section 7(k) to conform the level of detail to Nasdaq Phlx LLC (''Phlx'') Options 3, Sections 7(b)(10) and 14(f)(iii)(C), which describes Phlx's legging orders, as well as The Miami International Securities Exchange, LLC (''MIAX'') Rule 518(a)(10), which describes derived orders.

Generally, the Exchange proposes to amend the phrase ''regular limit order book'' in MRX Options 3, Section 7(k) to ''single-leg limit order book'' to conform the rule text to the manner in which that order book is described in MRX Options 3, Section 14, Complex Orders.

Currently, MRX Options 3, Section 7(k) provides,

Legging Orders. A legging order is a limit order on the regular limit order book that represents one side of a Complex Options Order that is to buy or sell an equal quantity of two options series resting on the Exchange's Complex Order Book. Legging orders are firm orders that are included in the Exchange's displayed best bid or offer.

(1) A legging order may be automatically generated for one leg of a Complex Options Order at a price: (i) that matches or improves upon the best displayed bid or offer on the regular limit order book; and (ii) at which the net price can be achieved when the other leg is executed against the best displayed bid or offer on the regular limit order book. A legging order will not be created at a price that locks or crosses the best bid or offer of another exchange or during a Posting Period in progress on the same side in the series, pursuant to Options 3, Section 15 regarding Acceptable Trade Range.

(2) A legging order is executed only after all other executable orders (including any non-displayed size) and quotes at the same price are executed in full. When a legging order is executed, the other portion of the Complex Options Order will be automatically executed against the displayed best bid or offer on the Exchange.

(3) A legging order is automatically removed from the regular limit order book if: (i) the price of the legging order is no longer at the displayed best bid or offer on the regular limit order book, (ii) execution of the legging order would no longer achieve the net price of the Complex Options Order when the other leg is executed against the best displayed bid or offer on the regular limit order book, (iii) the Complex Options Order is executed in full or in part on the Complex Order Book, or (iv) the Complex Options Order is cancelled or modified.

The Exchange proposes to amend the first paragraph of MRX Options 3, Section 7(k) to instead provide,

A Legging Order is a Limit Order on the single-leg limit order book in an individual series that represents one leg of a two-legged Complex Options Order that is to buy or sell an equal quantity of two options series resting on the Exchange's Complex Order Book. Legging Orders are firm orders that are included in the Exchange's displayed best bid or offer. Legging Orders are not routable and have a TIF of Day.

Generally, the Exchange proposes to capitalize the terms ''Legging Order'' and ''Limit Order'' throughout MRX Options 3, Section 7(k). The Exchange also proposes to amend the term ''one side of a Complex Options Order'' to more specifically state, ''one leg of a two-legged Complex Options Order.'' The Exchange also proposes to add a new sentence to the end of the paragraph which provides, ''Legging Orders are not routable and have a TIF of Day.'' Specifying that Legging Orders, which are an individual component of a Complex Options Order,[4] are also not routable will add detail to the description of the order type and make clear the current System handling. Similarly, specifying that Legging Orders will be Limit Orders [5] with a TIF of Day makes clear the way these orders are currently handled by the System. Legging Orders are not based on Member instruction and are intended to facilitate more interaction between the single-leg order book and the Complex Order Book, resulting in increased execution opportunities and better execution prices for Complex Orders and for orders resting on the single-leg order book. For this reason, Legging Orders do not route and have a TIF of Day to permit Members to interact with this order type. The Exchange believes the amended rule text proposed in the first paragraph of MRX Options 3, Section 7(k) more accurately describes a Legging Order and provides Members with greater information regarding this order type. Phlx's rules at Options 3, Section 7(b)(10) similarly describes a Legging Order as ''one leg of a two-legged Complex Options Order'' and specifies that Phlx's Legging Orders are not routable and have a time-in-force of Day.

The Exchange proposes to add a new second paragraph to MRX Options 3, Section 7(k) to specifically explain the way the System will generate a Legging Order. The Exchange proposes to state,

The System will evaluate whether Legging Orders may be generated (1) when a Complex Options Order enters the Complex Order Book, and (2) after a time interval (to be determined by the Exchange, not to exceed 1 second) when the NBBO or Exchange best bid or offer in any component of a Complex Options Order changes. The Exchange may determine to limit the number of Legging Orders generated on an objective basis and may determine to remove existing Legging Orders in order to maintain a fair and orderly market in times of extreme volatility or uncertainty. Legging Orders are treated as having no Priority Customer capacity on the single-leg order book, regardless of being generated from Priority Customer Complex Options Orders.

The Exchange proposes to make clear that the System will evaluate whether Legging Orders may be generated, which occurs at the time a Complex Options Order enters the Complex Order Book or after a time interval (to be determined by the Exchange, not to exceed one second) [6] when the NBBO or Exchange best bid or offer in any component of a Complex Options Order changes. The Exchange proposes to state that it may determine to limit the number of Legging Orders generated on an objective basis and may determine to remove existing Legging Orders, and cease the creation of additional Legging Orders, to maintain a fair and orderly market in times of extreme volatility or uncertainty. Phlx has similar rule text in Phlx Options 3, Section 14(f)(iii)(C).[7]

[3] The term ''System'' means the electronic system operated by the Exchange that receives and disseminates quotes, executes orders and reports transactions. *See* Options 1, Section 1(a)(49).

[4] The terms ''Complex Options Order,'' ''Stock-Option Order,'' and ''Stock-Complex Order'' refer to orders for a Complex Options Strategy, Stock-Option Strategy, and Stock-Complex Strategy, respectively. The term ''Complex Order'' includes Complex Options Orders, Stock-Option Orders, and Stock-Complex Orders. *See* MRX Options 3, Section 14(a)(5). *See also* MRX Options 3, Section 14(a)(1)–(3).

[5] A Limit Order is an order to buy or sell a stated number of options contracts at a specified price or better. *See* MRX Options 3, Section 7(b).

[6] Today, the time interval is set to one hundred milliseconds.

[7] Phlx's rule states, in part, in Options 3, Section 14(f)(iii)(C) that, ''. . . The System will evaluate the CBOOK when a Complex Order enters the CBOOK and at a regular time interval, to be determined by the Exchange (which interval shall not exceed 1 second), following a change in the national best bid and/or offer ('NBBO') or Phlx best bid and/or offer ('PBBO') in any component of a Complex Order eligible to generate Legging Orders, to determine whether Legging Orders may be generated. The Exchange may determine to limit the number of Legging Orders generated on an objective basis and may determine to remove existing Legging Orders in order to maintain a fair and orderly market in times of extreme volatility or uncertainty.''

This limitation assists the Exchange in managing the number of Legging Orders generated to ensure that Legging Orders do not negatively impact the Exchange's System capacity and performance so that MRX may maintain a fair and orderly market in times of extreme volatility or uncertainty. Of note, the Exchange does not limit the generation of Legging Orders on the basis of the entering Member or the Member category of the order (*i.e.,* Professional or Priority Customer). Phlx similarly made this representation when it proposed to adopt rules related to the generation and execution of ''legging orders.'' [8]

Finally, the Exchange proposes to provide that Legging Orders are treated as having no Priority Customer capacity on the single leg order book, regardless of being generated from Priority Customer Complex Options Orders. A Legging Order is handled in the same manner as other orders on the single-leg order book except as otherwise provided in MRX Options 3, Section 7(k), and is executed only after all other executable orders and quotes at the same price are executed in full. When a Legging Order is executed, the other component of the Complex Order on the Complex Order Book will be automatically executed against the best bid or offer on the Exchange. The Exchange believes that a Legging Order, created for the execution of a Complex Order, should not be afforded priority over resting orders and quotes on the single-leg order book, and therefore has determined to protect the priority on the single-leg order book of such resting orders and quotes. MIAX similarly executes a derived order only after all other executable orders and quotes at the same price are executed in full.[9]

The Exchange proposes to amend MRX Options 3, Section 7(k)(1) and add the title ''Generation of Legging Orders'' to describe the contents of the paragraph. The Exchange proposes to amend the first sentence which currently states,

A legging order may be automatically generated for one leg of a Complex Options Order at a price: (i) that matches or improves upon the best displayed bid or offer on the regular limit order book; and (ii) at which the net price can be achieved when the other leg is executed against the best displayed bid or offer on the regular limit order book. A legging order will not be created at a price that locks or crosses the best bid or offer of another exchange or during a Posting Period in progress on the same side in the series, pursuant to Options 3, Section 15 regarding Acceptable Trade Range.

The Exchange proposes to instead provide in Options 3, Section 7(k)(1),

A Legging Order may be automatically generated for one or both leg(s) of a Complex Options Order resting on top of the Complex Order Book at a price: (i) that matches or improves upon the best displayed bid or offer on the single-leg limit order book; and (ii) at which the net price can be achieved when the other leg is executed against the best displayed bid or offer on the single-leg limit order book, excluding other Legging Orders. Legging Orders will be generated and executed in the minimum increment for that options series.

The Exchange is proposing to add ''or both leg(s)'' to the first sentence of MRX Options 3, Section 7(k)(1) to make clear a Legging Order may be generated for each leg of a two-legged Complex Order. The Exchange notes that Legging Orders may be generated for each leg of a two-legged options orders with the same quantity on both legs. Automatically generating Legging Orders, which will only be executed after all other executable interest at the same price (including non-displayed interest) is executed in full, will provide additional execution opportunities for Complex Orders, without negatively impacting any investors in the single-leg market. In fact, the generation of Legging Orders may enhance execution quality for investors in the single-leg market by improving the price and/or size of the MRX BBO and by providing additional execution opportunity for resting orders on the single-leg order book. The generation of Legging Orders is fully compliant with all regulatory requirements. In particular, Legging Orders are firm orders that will be displayed at the MRX BBO. Also, a Legging Order will be automatically removed if it is no longer displayable at the MRX BBO or if the net price of the Complex Order can no longer be achieved. Finally, the generation of Legging Orders is limited in scope, as they may be generated only for Complex Options Orders with two legs. Additionally, as noted herein, the Exchange will closely manage and curtail the generation of Legging Orders to assure that they do not negatively impact system capacity and performance. Phlx's Legging Orders differ from MRX's Legging Orders in that, on Phlx, where two legging orders may be generated, only one of those can execute as part of the execution of a particular complex order.

The addition of ''resting on the top of the Complex Order Book'' in the first sentence of MRX Options 3, Section 7(k)(1) will make clear that the priority of orders in the Complex Order Book controls with respect to the generation of Legging Orders. The addition of this language is intended to provide greater detail with respect to the generation of Legging Orders.

The Exchange proposes to amend the second sentence of MRX Options 3, Section 7(k)(1) to add ''excluding other Legging Orders'' to the end of the sentence to make clear that the price of a Legging Order is not considered in the BBO for purposes of determining whether the net price of a Complex Order could be achieved were it to generate a Legging Order. Below is an example of the manner in which the System calculates the net price and excludes a Legging Order.

Example #1

Assume

Leg A is quoted 4.20 (100) × 4.25 (100)
Leg B is quoted 4.00 (100) × 4.10 (100)
Leg C is quoted 3.80 (100) × 3.90 (100)
Create A–B strategy, ratio of 1. cBBO [10] for A–B is 0.10 × 0.25
Create B–C strategy, ratio of 1. cBBO for B–C is 0.10 × 0.30

Generation of Legging Orders

Complex Order is entered to Buy A–B 10 @0 0.20
System generates Legging Order on leg A's bid @4 4.20
System generates Legging Order on Leg B's offer @4 4.05
Complex Order is entered to Buy B–C 10 @0 0.20
System generates Legging Order on leg B's bid @4 4.00
System generates Legging Order on Leg C's offer @3 3.90

Executions

If Complex Order B–C sold leg C @ 3.90, it would have to buy leg B for 4.10 or less to satisfy its net price of 0.20. Given that a Legging Order is available on Leg B's offer at 4.05, this Legging Order on leg C would have been able to generate at 3.85 instead of 3.90 if the Legging Order at 4.05 was included in the calculation of possible net execution price, but since it is not, the Legging Order is generated at 3.90 on Leg C's offer instead of 3.85.[11]

[8] *See* Securities Exchange Act Release No. 73545 (November 6, 2014), 79 FR 67498 (November 13, 2014) (SR–Phlx–2014–54) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Add a New Complex Order Process Called Legging Orders).

[9] *See* MIAX Rule 518(a)(10)(iv). *See also* Securities Exchange Act Release No. 79072 (October 7, 2016), 81 FR 71131 (October 14, 2016) (SR–MIAX–2016–26) (Order Approving a Proposed Rule Change to Adopt New Rules to Govern the Trading of Complex Orders).

[10] The cBBO is the net best bid or offer comprised of the best bids and offers of the individual legs of the complex strategy.

[11] Furthermore, if a single-leg order arrives to buy for 3.90 on Leg C, the B–C strategy trades with the 4.10 offer of Leg B and the 4.05 Legging Order is removed.

The Exchange is removing the last sentence of MRX Options 3, Section 7(k)(1) [12] because that concept is being relocated to proposed new paragraph Options 3, Section 7(k)(2) as described below.

Finally, the Exchange proposes to add a sentence to MRX Options 3, Section 7(k)(1) which states, ''Legging Orders will be generated and executed in the minimum increment for that options series.'' Options 3, Section 3 describes the minimum increments for options traded on MRX. This rule makes clear that the minimum increment rule in MRX Options 3, Section 3 is applicable to Legging Orders. MIAX Rule 518(a)(10)(iii) similarly provides that MRX's derived orders will not be created at a price increment less than the minimum established by Rule 510.[13]

The Exchange proposes to add proposed new paragraph MRX Options 3, Section 7(k)(2) with the title ''When Legging Orders Will Not Be Generated'' to describe the contents of the paragraph. The Exchange proposes to state in proposed MRX Options 3, Section 7(k)(2),

When Legging Orders Will Not Be Generated. A Legging Order will not be generated: (i) at a price that locks or crosses the best bid or offer of another exchange, (ii) if there is a complex auction on either side in the Complex Options Strategy, or a single-leg auction on either side in any component of the Complex Options Strategy, or a Posting Period in progress on the same side in the series, pursuant to Options 3, Section 15 regarding Acceptable Trade Range; (iii) if the price of the leg(s) of a Complex Options Order is outside of the price limits described in Options 3, Section 16(a); (iv) if there is already a Legging Order in that options series on the same side of the market at the same price; or (v) for Complex Orders with 2 option legs, where both legs are buying or both legs are selling and both legs are calls or both legs are puts, as described in Options 3, Section 14(d)(3)(A); or (vi) if the Exchange has not opened; or a particular option series has not opened or such options series is halted.

This paragraph will describe when Legging Orders will not be generated.

First, a Legging Order will not be generated at a price that locks or crosses the best bid or offer of another exchange as stated in the last sentence of MRX Options 3, Section 7(k)(1). This concept is consistent with MRX Options 5, Sections 2 and 3 which describe order protection and locked and crossed markets.[14]

Second, the Exchange proposes to add a provision which states that a Legging Order will not be generated if there is a complex auction on either side in the Complex Options Strategy,[15] or a single-leg auction on either side in any component of the Complex Options Strategy, or a Posting Period in progress on the same side in the series, pursuant to MRX Options 3, Section 15 regarding Acceptable Trade Range (''ATR'').[16] The last part of this proposed sentence concerning ATR was relocated from the last sentence of MRX Options 3, Section 7(k)(1).

Third, the Exchange proposes to add a provision which states that a Legging Order will not be generated if the price of the leg(s) of a Complex Options Order is outside of the price limits described in MRX Options 3, Section 16(a). In the instance where a Legging Order generated is currently outside the price parameter (because the ABBO has moved), the System will remove the Legging Order that was outside the price limits pursuant to proposed MRX Options 3, Section 7(k)(2)(iii) and will attempt to re-generate a new Legging Order that is in the price limits described in MRX Options 3, Section 16(a) as proposed in MRX Options 3, Section 7(k)(4)(v). Today, MRX Options 3, Section 16(a) would restrict the execution of a Legging Order through price limits for Complex Orders. By adding the aforementioned rule text in proposed new paragraph Options 3, Section 7(k)(2), all limitations related to the generation of Legging Orders will be memorialized in Options 3, Section 7(k).[17]

Fourth, the Exchange proposes to add a provision which states that a Legging Order will not be generated if there is already a Legging Order in that options series on the same side of the market at the same price. This provision addresses a situation of overlapping Legging Orders. Phlx has a similar sentence in Phlx Options 3, Section 7(b)(10)(2).[18] The addition of this rule text will make clear an existing limitation to the generation of orders in MRX Options 3, Section 7(k).

Fifth, the Exchange proposes to add a provision which states that a Legging Order will not be generated for Complex Orders with two option legs, where both legs are buying or both legs are selling and both legs are calls or both legs are puts, as described in MRX Options 3, Section 14(d)(3)(A). This limitation is currently provided for in MRX Options 3, Section 14(d)(3)(A) and is being added to proposed new paragraph MRX Options 3, Section 7(k)(2) to provide Members with a complete list of when Legging Orders will not be generated in Options 3, Section 7(k).

Sixth, the Exchange proposes to add a provision which states that a Legging Order will not be generated if the Exchange has not opened; or a particular option series has not opened or such options series is halted. Since a complex strategy must be available for trading to generate a Legging Order, the failure of an options series that is a component of the complex strategy to open or a subsequent halt would cause Legging Orders not to generate. Phlx has

[12] The last sentence of MRX Options 3, Section 7(k)(1) states, ''A legging order will not be created at a price that locks or crosses the best bid or offer of another exchange or during a Posting Period in progress on the same side in the series, pursuant to Options 3, Section 15 regarding Acceptable Trade Range.''

[13] MIAX Rule 510 specifies the minimum increments for options traded on MIAX.

[14] MRX Options 5 is incorporated by reference to ISE Options 5. Specifically, ISE Options 5, Section 2 and 3 apply to MRX.

[15] A Complex Options Strategy is the simultaneous purchase and/or sale of two or more different options series in the same underlying security, for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purpose of executing a particular investment strategy. Only those Complex Options Strategies with no more than the applicable number of legs, as determined by the Exchange on a class-by-class basis, are eligible for processing. *See* MRX Options 3, Section 14(a)(1).

[16] ATR is a risk protection which sets dynamic boundaries within which quotes and orders may trade. ATR is designed to guard the System from experiencing dramatic price swings by preventing the immediate execution of quotes and orders beyond the thresholds set by this risk protection.

[17] Phlx's rule similarly indicates that a Legging Order is subject to certain price parameters by stating that a Legging Order will not be generated if the price of the Complex Order is outside of the relevant ACE Parameter. *See* PhlxOptions 3, Section 7(b)(10)(2). The ACE Parameter differs from the price limits described in MRX Options 3, Section 16(a). Phlx's ACE Parameter defines a price range outside of which a Complex Order will not be executed. The ACE Parameter is either a percentage or number as defined by Phlx and may be set at a different percentage or number for Complex Orders where one of the components is the underlying security. The ACE Parameter price range is based on the cNBBO at the time an order would be executed. A Complex Order to sell will not be executed at a price that is lower than the cNBBO bid by more than the ACE Parameter. A Complex Order to buy will not be executed at a price that is higher than the cNBBO offer by more than the ACE Parameter. A Complex Order or a portion of a Complex Order that cannot be executed within the ACE Parameter pursuant to this rule will be placed on the CBOOK. *See* Phlx Options 3, Section 16(b)(i).

[18] Phlx Options 3, Section 7(b)(10)(2)) states, in part, that Legging Order will not be generated if there is already a Legging Order in that series on the same side of the market at the same price (unless it has priority based on the participant type, under existing Exchange rules). The phrase ''unless it has priority based on the participant type, under existing Exchange rules'' is not being added to MRX's Rule as Options 3, Section 10 which describes allocation on the single-leg order book, because as stated in proposed MRX Options 3, Section 7(k), ''Legging Orders are treated as having no Priority Customer capacity on the single-leg order book, regardless of being generated from Priority Customer Complex Options Orders.''.

a similar rule in Phlx Options 3, Section 7(b)(10)(1).[19]

The Exchange proposes to renumber current MRX Options 3, Section 7(k)(2) as (k)(3) and add the title ''Execution of Legging Orders'' to describe the contents of the paragraph. The Exchange proposes to state in proposed MRX Options 3, Section 7(k)(3) that,

> A Legging Order is executed only after all other executable orders (including any non-displayed size) and quotes at the same price are executed in full. When a Legging Order is executed, the other leg of the Complex Options Order will be automatically executed against the displayed best bid or offer on the Exchange and any other Legging Order not executed as part of the Complex Options Order will be removed. Two Legging Orders related to the same Complex Options Order can be generated, and both can execute as part of the execution of a particular Complex Options Order.

The Exchange's proposal, similar to Phlx Options 3, Section 7(b)(10)(3)describes current System handling when a Legging Order is executed and subsequently the other leg of the Complex Order will be automatically executed against the displayed best bid or offer on the Exchange, and any other Legging Order based on that Complex Order will be removed. The Exchange proposes to replace the word ''portion'' with ''leg'' to make the rule text more explicit. The Exchange proposes to add the phrase ''and any other Legging order not executed as part of the Complex Options Order will be removed'' to the end of the second sentence in proposed MRX Options 3, Section 7(k)(3). Phlx has a substantively similar sentence in Options 3, Section 7(b)(10)(3).[20] The addition of this phrase is intended to provide additional information regarding the treatment of unexecuted Legging Orders in MRX Options 3, Section 7(k). By way of example,

Example #2

Assume:

Complex A–B (ratio 1:1) strategy, ratio of 1 is created
MM Quote for leg A 4.20 (100) × 4.50 (100)
MM Quote for leg B 4.00 (100) × 4.10 (100)
A–B Derived BBO: 0.10 × 0.50
Complex Order to Buy A–B 10 @ net price of 0.45
System generates a Legging Order on leg A's bid for quantity of 10 @ 4.45
System generates a Legging Order leg B's offer for quantity of 10 @ 4.05
Single-leg order to sell 10 @ 4.45 on Leg A arrives

Execution:

Complex Order A–B Legging Order trades 10 with Single leg order on Leg A @ 4.45
Complex Order A–B other leg trades 10 with MM Quote on Leg B @ 4.00

Removal of Legging Order:

Legging Order that was generated for quantity of 10 on Leg B @ 4.05 is removed from the order book.

Next, the Exchange proposes to add a new sentence to MRX Options 3, Section 7(k)(3) which states, ''Two Legging Orders related to the same Complex Options Order can be generated, and both can execute as part of the execution of a particular Complex Options Order.'' As noted above, two Legging Orders related to the same Complex Options Order can be generated, and both can execute as part of the execution of a particular Complex Options Order. This behavior differs from Phlx where two legging orders may be generated, but only one of those can execute as part of the execution of a particular complex order. The Exchange believes that permitting both Legging Orders to execute as part of the execution of a particular Complex Options Order will allow more Complex Orders to execute while the price of the leg(s) will continue to be bounded by the price limits described in MRX Options 3, Section 16(a). By way of example,

Example #3

Assume:

Complex A–B strategy, ratio of 1 is created
Complex 2A–B strategy, ratio of 2:1 is created
MM Quote for leg A 4.20 (100) × 4.50 (100
MM Quote for leg B 4.00 (100) × 4.10 (100)
Complex BBO for A–B is 0.10 × 0.50
Complex BBO for 2A–B is 4.30 × 5.00

Leg Generation:

Complex Order to Buy A–B 10 @ 0.45
System generates a Legging Order on leg A's bid @ 4.45
System generates a Legging Order on leg B's offer @ 4.05

Execution:

Complex Order to Sell 2A–B 5 @ 4.85
2A–B Order trades with Legging Order on leg A 10 @ 4.45
2A–B Order trades with the Legging Order on leg B 5 @ 4.05
A–B trades with MM Quote on leg B 5 @ 4.00

The Exchange proposes to renumber MRX Options 3, Section 7(k)(3) as (k)(4) and title the paragraph, ''Removal of Generated Legging Orders'' to describe the contents of the paragraph. This paragraph describes when a Legging Order is automatically removed from the single-leg limit order book. The Exchange proposes to add a clause to the end of proposed MRX Options 3, Section 7(k)(4)(i) so that the sentence would state, ''A Legging Order is automatically removed from the single-leg limit order book if: (i) the price of the Legging Order is no longer at the displayed best bid or offer on the single-leg limit order book *or is at a price that locks or crosses the best bid or offer of another exchange . . .*''(emphasis added). Current MRX Options 3, Section 7(k)(1) already notes that a Legging Order will not be created at a price that locks or crosses the best bid or offer of another exchange. Adding the same rule text to proposed MRX Options 3, Section 7(k)(4) will make clear that a Legging Order that locks or crosses an away market would be removed from the limit order book.

The Exchange proposes to add a clause to proposed MRX Options 3, Section 7(k)(4)(ii) to provide that ''A Legging Order is automatically removed from the single-leg limit order book if . . . (ii) execution of the Legging Order would no longer achieve that net price of the Complex Options Order when the other leg is executed against the best displayed bid or offer on the single-leg limit order book, *excluding other Legging Orders*'' (emphasis added). Phlx has a similar sentence in Options 3, Section 7(b)(10)(4).[21] A Legging Order is removed if the BBO on the other leg worsens such that the Complex Order limit price could no longer be achieved by trading with the quote, even if it could be achieved by trading with a Legging Order generated by another Complex Order. The Exchange would not rely solely on the price of another

[19] Phlx Options 3, Section 7(b)(10)(1)states, in part, that Legging Orders will not be generated if the Exchange or a particular option has not opened, is halted or is otherwise not available for trading. MRX believes that not opening and a halt are the two possible scenarios and therefore Phlx's rule and MRX's rule are substantively the same in this regard.

[20] Phlx Options 3, Section 7(b)(10)(3) states, ''A Legging Order is executed only after all other executable orders (including any non-displayed size) and quotes at the same price are executed in full. When a Legging Order is executed, the other leg of the Complex Order will be automatically executed against the displayed best bid or offer on the Exchange and any other Legging Order based on that Complex Order will be removed.'' MRX explicitly states ''not executed as part of the Complex Options Order'' where Phlx says ''based on that Complex Order.''

[21] Phlx Options 3, Section 7(b)(10)(4)provides, ''if execution of the Legging Order would no longer achieve the net price of the Complex Order when the other leg is executed against the Exchange's best displayed bid or offer on the regular Limit Order book (other than another Legging Order).'' This language is substantively the same as MRX's proposed rule text.

Legging Order when calculating the net price of the Complex Options Order for purposes of determining at which price a Legging Order will execute. In the below example this point is illustrated in that the Legging Order could not rely on the 4.05 offer on Leg B derived from the other Legging Order, rather it must rely on the 4.10 offer on Leg B derived from the quote.

Example #4

Assume:

Leg A is quoted 4.20 (100) × 4.25 (100)

Leg B is quoted 4.00 (100) × 4.05 (100)

Leg C is quoted 3.80 (100) × 3.90 (100)

Create A–B strategy, ratio of 1 with a cBBO for A–B is 0.15 × 0.25

Create B–C strategy, ratio of 1 with a cBBO for B–C is 0.10 × 0.30

Generation of Legging Orders:

Complex Order is entered to Buy B–C (Buy B, Sell C) 10 @ 0.20

System generates Legging Orders on Leg B's bid @4 4.00 & Leg C's offer @ 3.85.

Complex Order is entered to Buy A–B (Buy A, Sell B) 10 @0 0.20

System generates Legging Orders on Leg A's bid @ 4.20 & Leg B's offer @ 4.05

Removal of Legging Order:

Market Maker updates their quote for Leg B with a worsened offer: 4.00 (100) × 4.10 (100)

Even though the displayed best offer for Leg B did not change in price, it is derived from a Legging Order which is excluded from the System's calculations in determining whether the net price of this Complex Order can be achieved if its Legging Order trades. The Legging Order at 3.85 on Leg C can no longer achieve the Complex Order's net price were it to execute in addition to the quote for Leg B. The System will remove the Legging Order at 3.85 on Leg C and will regenerate a new Legging Order on Leg C at 3.90 and this would allow the Legging Order to achieve the net price of the Complex Order if it trades along with the quote on Leg B.

The Exchange proposes to add a new section ''(v)'' to proposed MRX Options 3, Section 7(k)(4) which states, ''A Legging Order is automatically removed from the single-leg limit order book if . . . (v) the price of the leg(s) of a Complex Options Order is outside of the price limits described in current MRX Options 3, Section 16(a).'' This limitation is currently described in MRX Options 3, Section 16(a) and is being added to this order type to complete the list of cases where a Legging Order would be removed from the order book in Options 3, Section 7(k). Phlx has similar rule text in Options 3, Section 7(b)(10)(4).[22]

The Exchange proposes to add new section ''(vi)'' to proposed MRX Options 3, Section 7(k)(4) which states, ''A Legging Order is automatically removed from the single-leg limit order book if . . . (vi) the System receives a complex auction on either side in the Complex Options Strategy, or the System receives a single-leg auction on either side in any component of the Complex Options Strategy.'' Phlx has similar language in Options 3, Section 7(b)(10)(4).[23] As noted above, the Exchange believes from a System processing and user acceptance standpoint, the best practice is to remove the System-generated Legging Order from the order book during the course of the auction, as that time is minimal, then the System can attempt to re-generate a Legging Order once the auction has concluded.

Finally, the Exchange proposes to add new section ''(vii)'' to proposed MRX Options 3, Section 7(k)(4) which states, ''A Legging Order is automatically removed from the single-leg limit order book if . . . (vii) a Legging Order is generated by a different Complex Options Order in the same leg at a better price or the same price for a participant with a higher price priority.'' As noted in MRX Options 3, Section 7(k)(1), a Legging Order may be automatically generated at a price that matches or improves upon the best displayed bid or offer on the single-leg limit order book. The System removes the Legging Order because it would have been at an inferior price. Phlx Options 3, Section 7(b)(10)(4) has similar language.[24]

As revised, the rule text proposed in MRX Options 3, Section 7(k)(4) is intended to cover all circumstances where a Legging Order would be automatically removed from the single-leg limit order.

Options 3, Section 16

The Exchange proposes to amend the language in MRX Options 3, Section 16(a) related to price limits for Complex Orders. As provided in MRX Options 3, Section 16(a)the legs of a complex strategy may be executed at prices that are inferior to the prices available on other exchanges trading the same options series. Notwithstanding the foregoing, the System will not permit any leg of a complex strategy to trade through the NBBO for the series or any stock component by a configurable amount calculated as the lesser of (i) an absolute amount not to exceed $0.10, and (ii) a percentage of the NBBO not to exceed 500%, as determined by the Exchange on a class, series or underlying basis. A Member can also include an instruction on a Complex Order that each leg of the Complex Order is to be executed only at a price that is equal to or better than the NBBO *on the opposite side* for the options series or any stock component, as applicable (''Do-Not-Trade-Through'' or ''DNTT''). The addition of the words ''on the opposite side'' is intended to make clear the manner in which the System will handle a DNTT instruction. That is, the System will check that the price is equal to or better than the NBBO on the opposite side of the options series or any stock component.

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act,[25] in general, and furthers the objectives of section 6(b)(5) of the Act,[26] in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

Options 3, Section 7

The Exchange's proposal to amend MRX Options 3, Section 7(k), Legging Orders, is consistent with the Act because the proposal expands the description of Legging Orders to describe in more detail the current legging functionality, thereby increasing transparency with respect to this order type. The proposed amendments reflect the way Legging Orders work today. The Exchange is not amending its System functionality with respect to Legging Orders, rather, the proposed rule text is intended to be more descriptive and conform the level of detail in the order type to Phlx Options 3, Section 7(b)(10)which describes details of Phlx's legging orders and MIAX Rule 518(a)(10), which describes derived orders.

Specifying that Legging Orders, which are an individual component of a Complex Options Order, are ''one leg of

[22] Phlx Options 3, Section 7(b)(10)(4)states that ''A Legging Order is automatically removed from the regular order book: . . . (v) if the price of the Complex Order is outside the ACE Parameter of paragraph (i).'' As noted above, Phlx and MRX have different price parameters.

[23] *Id.*

[24] Phlx Options 3, Section 7(b)(10)(4) states that ''A Legging Order is automatically removed from the regular order book: . . . (vii) if a Legging Order is generated by a different Complex Order in the same leg at a better price or the same price for a participant with a higher price priority . . .''. While Phlx's Options 3, Section 14 has priority overlays for different market participants within its allocation model, whereas MRX does not have similar priority overlays and the remainder of the language is not necessary.

[25] 15 U.S.C. 78f(b).

[26] 15 U.S.C. 78f(b)(5).

a two-legged Complex Options Order'' and are not routable in the first paragraph of MRX Options 3, Section 7(k) is consistent with the Act because these terms better describe a Legging Order. Similarly, specifying that Legging Orders will be Limit Orders with a TIF of Day makes clear the way these orders are handled by the System. Legging Orders are not based on Member instruction and are intended to facilitate more interaction between the single-leg order book and the Complex Order Book, resulting in increased execution opportunities and better execution prices for Complex Orders and for orders resting on the single-leg order book. For this reason, Legging Orders do not route and have a TIF of Day to permit Members to interact with this order type. The Exchange believes the amended rule text more accurately describes a Legging Order and makes clear to Members the behavior of Legging Orders. Also, capitalizing the terms ''Legging Order'' and ''Limit Order'' and referring to a ''single-leg'' order book throughout MRX Options 3, Section 7(k) conforms terms with those of MRX Options 3, Section 14, Complex Orders.

The proposed text in the new second paragraph of MRX Options 3, Section 7(k) makes clear the current System processing for Legging Orders. Specifically, the proposed rule text makes clear that the System will evaluate whether Legging Orders may be generated, which occurs at the time a Complex Options Order enters the Complex Order Book or after a time interval (to be determined by the Exchange, not to exceed one second) [27] when the NBBO or Exchange best bid or offer in any component of a Complex Options Order changes. Further, the Exchange proposes to state that it may determine to limit the number of Legging Orders generated on an objective basis and may determine to remove existing Legging Orders, and cease the creation of additional Legging Orders, to maintain a fair and orderly market in times of extreme volatility or uncertainty. Phlx has similar rule text in Phlx Options 3, Section 14(f)(iii)(C).[28] The proposed limitation is consistent with the Act because it assists the Exchange in managing the number of Legging Orders generated to ensure that Legging Orders do not negatively impact the Exchange's System capacity and performance so that MRX may maintain a fair and orderly market in times of extreme volatility or uncertainty. Of note, the Exchange does not limit the generation of Legging Orders on the basis of the entering Member or the Member category of the order (*i.e.,* Professional or Priority Customer). The Exchange proposes to limit the number of Legging Orders, remove existing Legging Orders, and cease creation of additional Legging Orders, in order to permit the Exchange to maintain a fair and orderly market in times of extreme volatility or uncertainty. This discretion is consistent with the Act because it assists the Exchange in managing the number of Legging Orders generated to ensure that Legging Orders do not negatively impact the Exchange's System capacity and performance.

The Exchange's proposal to provide that Legging Orders are treated as having no Priority Customer capacity on the single leg order book, regardless of being generated from Priority Customer Complex Options Orders is consistent with the Act and the protection of investor and the public interest. A Legging Order is handled in the same manner as other orders on the single-leg order book except as otherwise provided in MRX Options 3, Section 7(k), and is executed only after all other executable orders and quotes at the same price are executed in full. When a Legging Order is executed, the other component of the Complex Order on the Complex Order Book will be automatically executed against the best bid or offer on the Exchange. The Exchange believes that a Legging Order, created for the execution of a Complex Order, should not be afforded priority over resting orders and quotes on the single-leg order book, and therefore has determined to protect the priority on the single-leg order book of such resting orders and quotes. MIAX similarly executes a derived order only after all other executable orders and quotes at the same price are executed in full.[29]

The Exchange's proposal to amend MRX Options 3, Section 7(k)(1) to make clear a Legging Order may be generated for each leg of a two-legged Complex Order is consistent with the Act. Legging Orders may be generated for each leg of a two-legged options orders with the same quantity on both legs. Automatically generating Legging Orders promotes just and equitable principles of trade because these orders will only be executed after all other executable interest at the same price (including non-displayed interest) is executed in full. This behavior is consistent with the Act because it will provide additional execution opportunities for Complex Orders, without negatively impacting any investors in the single-leg market. In fact, the generation of Legging Orders may enhance execution quality for investors in the single-leg market by improving the price and/or size of the MRX BBO and by providing additional execution opportunity for resting orders on the single-leg order book. The generation of Legging Orders is fully compliant with all regulatory requirements. In particular, Legging Orders are firm orders that will be displayed at the MRX BBO. Also, a Legging Order will be automatically removed if it is no longer displayable at the MRX BBO or if the net price of the Complex Order can no longer be achieved. Finally, the generation of Legging Orders is limited in scope, as they may be generated only for Complex Options Orders with two legs. Additionally, as noted herein, the Exchange will closely manage and curtail the generation of Legging Orders to assure that they do not negatively impact system capacity and performance. Phlx's Legging Orders differ from MRX's Legging Orders in that, on Phlx, two legging orders may be generated, but only one of those can execute as part of the execution of a particular complex order.

The addition of ''resting on the top of the Complex Order Book'' in the first sentence of MRX Options 3, Section 7(k)(1) is consistent with the Act because it is consistent with existing Legging Order functionality that considers the best price on MRX's order book. This addition will make clear that the priority of orders in the Complex Order Book controls with respect to the generation of Legging Orders.

The Exchange's proposal to amend the second sentence of MRX Options 3, Section 7(k)(1) to add ''excluding other Legging Orders'' to the end of the sentence is consistent with the Act because it makes clear that the price of a Legging Order is not considered in the BBO for purposes of determining whether the net price of a Complex

[27] Today, the time interval is set to one hundred milliseconds.

[28] Phlx's rule states, in part, in Options 3, Section 14(f)(iii)(C) that, ''. . . The System will evaluate the CBOOK when a Complex Order enters the CBOOK and at a regular time interval, to be determined by the Exchange (which interval shall not exceed 1 second), following a change in the national best bid and/or offer (''NBBO'') or Phlx best bid and/or offer (''PBBO'') in any component of a Complex Order eligible to generate Legging Orders, to determine whether Legging Orders may be generated. The Exchange may determine to limit the number of Legging Orders generated on an objective basis and may determine to remove existing Legging Orders in order to maintain a fair and orderly market in times of extreme volatility or uncertainty.''

[29] *See* MIAX Rule 518(a)(10)(iv). *See also* Securities Exchange Act Release No. 79072 (October 7, 2016), 81 FR 71131 (October 14, 2016) (SR–MIAX–2016–26) (Order Approving a Proposed Rule Change to Adopt New Rules to Govern the Trading of Complex Orders).

Order could be achieved were it to generate a Legging Order.

Finally, the Exchange's proposal to add a sentence to MRX Options 3, Section 7(k)(1) which states, ''Legging Orders will be generated and executed in the minimum increment for that options series'' is consistent with the Act because MRX Options 3, Section 3 describes the minimum increments for options traded on MRX. Adding this rule text will make clear that the minimum increment rule in Options 3, Section 3 is applicable to Legging Orders. MIAX Rule 518(a)(10)(iii) similarly provides that MRX's derived orders will not be created at a price increment less than the minimum established by Rule 510.[30]

Amending proposed new paragraph MRX Options 3, Section 7(k)(2) to note that a Legging Order will not be generated at a price that locks or crosses the best bid or offer of another exchange is already provided for in the last sentence of current Options 3, Section 7(k)(1). This concept is consistent with the Act in that the Exchange will not trade through away markets as specified in Options 5, Sections 2 and 3 which describe order protection and locked and crossed markets rules.

Adding a provision to proposed new paragraph MRX Options 3, Section 7(k)(2) which states that a Legging Order will not be generated if there is a complex auction on either side in the Complex Options Strategy, or a single-leg auction on either side in any component of the Complex Options Strategy, or a Posting Period in progress on the same side in the series, pursuant to Options 3, Section 15 regarding ATR is consistent with the Act. The Exchange believes from a System processing and user acceptance standpoint, the best practice is to wait for an auction in that options series to be complete, or for the ATR Posting Period to complete, as that time is minimal. Phlx's legging order rule in Options 3, Section 7(b)(10)(2) has the same restriction as proposed to be added to MRX's Legging Orders rule.[31]

Adding a provision to proposed new paragraph MRX Options 3, Section 7(k)(2) which states that a Legging Order will not be generated if the price of the leg(s) of a Complex Options Order is outside of the price limits described in Options 3, Section 16(a) is consistent with the Act. Today, MRX Options 3, Section 16(a) would restrict the generation of a Legging Order through price limits for Complex Orders, by adding this rule text in Options 3, Section 7(k)(2) all limitations related to the generation of Legging Orders will be memorialized in Options 3, Section 7(k).[32]

Adding a provision to proposed new paragraph MRX Options 3, Section 7(k)(2) which states that a Legging Order will not be generated if there is already a Legging Order in that options series on the same side of the market at the same price is consistent with the Act. This provision addresses a situation of overlapping Legging Orders and Legging Order dependencies in other components. Phlx has a similar sentence in Phlx Options 3, Section 7(b)(10)(2). Of note, the phrase ''unless it has priority based on the participant type, under existing Exchange rules'' from Phlx Options 3, Section 7(b)(10)(2) is not being added to MRX's Rule as Options 3, Section 10 which describes allocation on the single-leg order book, because as stated in proposed MRX Options 3, Section 7(k), ''Legging Orders are treated as having no Priority Customer capacity on the single-leg order book, regardless of being generated from Priority Customer Complex Options Orders.'' The addition of this rule text will make clear an existing limitation to the generation of orders in Options 3, Section 7(k).

Adding a provision to proposed new paragraph MRX Options 3, Section 7(k)(2) which states that a Legging Order will not be generated for Complex Orders with two option legs, where both legs are buying or both legs are selling and both legs are calls or both legs are puts, as described in Options 3, Section 14(d)(3)(A) is consistent with the Act. This limitation is already provided for in current MRX Options 3, Section 14(d)(3)(A) and is being added to proposed new paragraph Options 3, Section 7(k)(2) to provide Members with a complete list of when Legging Orders will not be generated in Options 3, Section 7(k).

Adding a provision to proposed new paragraph MRX Options 3, Section 7(k)(2) which states that a Legging Order will not be generated if the Exchange has not opened; or a particular option series has not opened or such options series is halted is consistent with the Act. Since a complex strategy must be available for trading to generate a Legging Order, the failure of an options series that is a component of the complex strategy to open or a subsequent halt would cause Legging Orders not to generate. Phlx has a similar rule in Phlx Options 3, Section 7(b)(10)(1).

Amending proposed MRX Options 3. Section 7(k)(3), similar to Phlx Options 3, Section 7(b)(10)(3)to describe current System handling when a Legging Order is executed and subsequently the other leg of the Complex Order is automatically executed against the displayed best bid or offer on the Exchange, and, therefore, any other Legging Order based on that Complex Order is removed is consistent with the Act. This example demonstrates that the Exchange will execute against the best bid or offer on the Exchange and will remove Legging Orders. The proposal to replace the word ''portion'' with ''leg'' will make the rule text more explicit. Adding the phrase ''and any other Legging order not executed as part of the Complex Options Order will be removed'' to the end of the second sentence in proposed Options 3, Section 7(k)(3) is consistent with the Act because the phrase will provide additional information regarding the treatment of unexecuted Legging Orders in Options 3, Section 7(k). Phlx has a substantively similar sentence in Options 3, Section 7(b)(10)(3).[33]

Amending proposed MRX Options 3, Section 7(k)(3) to add a new sentence to Options 3, Section 7(k)(3) which states, ''Two Legging Orders related to the same Complex Options Order can be generated, and both can execute as part of the execution of a particular Complex Options Order'' is consistent with the Act. As noted above, two Legging Orders related to the same Complex Options Order can be generated, and

[30] MIAX Rule 510 specifies the minimum increments for options traded on MIAX.

[31] Phlx Options 3, Section 7(b)(1)(2) provides that ''A Legging Order will not be created . . .''(ii) if there is an auction on either side or a Posting Period under Options 3, Section 15 regarding Acceptable Trade Range on the same side in progress in the series.'' Phlx's rules describe an auction on either side of the Legging Order while MRX's auction breaks down the auction into either a complex auction or single-leg auction. Of note, Phlx's Acceptable Trade Range rule has a Posting Period described in Options 3, Section 15. MRX does have an Acceptable Trade Range rule as well in Options 3, Section 15, but that rule differs from Phlx as there is no Posting Period.

[32] Phlx's rule similarly indicates that a Legging Order is subject to certain price parameters by stating that a Legging Order will not be generated if the price of the Complex Order is outside of the ACE Parameter of paragraph in subparagraph (i) of Options 3, Section 14. The ACE Parameter differs from the price limits described in MRX Options 3, Section 16(a).

[33] Phlx Options 3, Section 7(b)(10)(3)states, ''A Legging Order is executed only after all other executable orders (including any non-displayed size) and quotes at the same price are executed in full. When a Legging Order is executed, the other leg of the Complex Order will be automatically executed against the displayed best bid or offer on the Exchange and any other Legging Order based on that Complex Order will be removed.'' MRX explicitly states ''not executed as part of the Complex Options Order'' where Phlx says ''based on that Complex Order.''

both can execute as part of the execution of a particular Complex Options Order. This behavior differs from Phlx where two legging orders may be generated, but only one of those can execute as part of the execution of a particular complex order. The Exchange believes that permitting both Legging Orders to execute as part of the execution of a particular Complex Options Order will allow more Complex Orders to execute while the price of the leg(s) will continue to be bounded by the price limits described in MRX Options 3, Section 16(a).

Amending proposed MRX Options 3, Section 7(k)(4)(i) to state, ''A Legging Order is automatically removed from the single-leg limit order book if: (i) the price of the Legging Order is no longer at the displayed best bid or offer on the single-leg limit order book *or is at a price that locks or crosses the best bid or offer of another exchange . . .*'' (emphasis added) is consistent with the Act. Current Options 3, Section 7(k)(2) already notes that a Legging Order will not be created at a price that locks or crosses the best bid or offer of another exchange. Adding the same rule text to proposed Options 3, Section 7(k)(4) will make clear that a Legging Order that locks or crosses an away market would be removed from the limit order book.

Amending proposed MRX Options 3, Section 7(k)(4)(ii) to add a clause to current Options 3, Section 7(k)(3) at (ii) to provide that ''A Legging Order is automatically removed from the single-leg limit order book if . . . (ii) execution of the Legging Order would no longer achieve that net price of the Complex Options Order when the other leg is executed against the best displayed bid or offer on the single-leg limit order book, *excluding other Legging Orders*'' (emphasis added) is consistent with the Act. A Legging Order is removed if the BBO on the other leg worsens such that the Complex Order limit price could no longer be achieved by trading with the quote, even if it could be achieved by trading with a Legging Order generated by another Complex Order. Phlx has a similar sentence in Options 3, Section 7(b)(10)(4).

Amending proposed MRX Options 3, Section 7(k)(4) to add a new section ''(v)'' to this paragraph which states, ''A Legging Order is automatically removed from the single-leg limit order book if . . . (v) the price of the leg(s) of a Complex Options Order is outside of the price limits described in current Options 3, Section 16(a)'' is consistent with the Act. This limitation is currently described in MRX Options 3, Section 16(a) and is being added to this order type to complete the list of cases where a Legging Order would be removed from the order book in Options 3, Section 7(k). Phlx has similar rule text in Options 3, Section 7(b)(10)(4).

Amending proposed MRX Options 3, Section 7(k)(4) to add a new section ''(vi)'' to this paragraph which states, ''A Legging Order is automatically removed from the single-leg limit order book if . . . (vi) the System receives a complex auction on either side in the Complex Options Strategy, or the System receives a single-leg auction on either side in any component of the Complex Options Strategy'' is consistent with the Act.

As noted above, the Exchange believes from a System processing and user acceptance standpoint, the best practice is to remove the System-generated Legging Order from the order book during the course of the auction, as that time is minimal, then the System can attempt to re-generate a Legging Order once the auction has concluded. Phlx has similar language in Options 3, Section 7(b)(10)(4).

Amending proposed MRX Options 3, Section 7(k)(4) to add a new section ''(vii)'' to this paragraph which states, ''A Legging Order is automatically removed from the single-leg limit order book if . . . (vii) a Legging Order is generated by a different Complex Options Order in the same leg at a better price or the same price for a participant with a higher price priority.'' As noted in proposed Options 3, Section 7(k)(1), a Legging Order may be automatically generated at a price that matches or improves upon the best displayed bid or offer on the single-leg limit order book. The System removes the Legging Order because it would have been at an inferior price. Phlx Options 3, Section 7(b)(10)(4) has similar language.

Options 3, Section 16

The Exchange's proposal to amend the language in MRX Options 3, Section 16(a) related to price limits for Complex Orders is consistent with the Act and protects investors and the general public by ensuring that the DNTT instruction causes a Complex Order is to be executed only at a price that is equal to or better than the NBBO on the opposite side for the options series or any stock component. The proposed rule text makes transparent the manner in which the System is currently handling the DNTT instruction.

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 not necessary or appropriate in furtherance of the purposes of the Act.

Options 3, Section 7

The Exchange's proposal to amend MRX Options 3, Section 7(k), Legging Orders, does not impose an intra-market burden on competition because all market participants may interact with Legging Orders on the single-leg order book. The Exchange's proposal to amend MRX Options 3, Section 7(k), Legging Orders, does not impose an inter-market burden on competition because other options exchanges may offer Legging Orders with similar functionality. Enhancing the description of the Legging Orders functionality will allow MRX to compete effectively with other options exchanges that offer similar functionality.

The Exchange's proposal to limit the number of Legging Orders and the ability to remove existing Legging Orders does not impose an intra-market burden on competition because the functionality will permit the Exchange to maintain a fair and orderly market in times of extreme volatility or uncertainty. Further, the Exchange does not limit the generation of Legging Orders on the basis of the entering Member or the Member category of the order (*i.e.,* Professional or Priority Customer). The Exchange's proposal to limit the number of Legging Orders and the ability to remove existing Legging Orders does not impose an inter-market burden on competition because this discretion is consistent with the treatment of Legging Orders on other options exchanges.[34]

Options 3, Section 16

The Exchange's proposal to amend the language in MRX Options 3, Section 16(a) related to price limits for Complex Orders to specify that a Complex Order must be executed at a price that is equal to or better than the NBBO *on the opposite side* for the options series or any stock component does not impose an intra-market burden on competition because the System applies this price check to all Members executing Complex Orders in the same manner. The Exchange's proposal to amend the language in MRX Options 3, Section 16(a) does not impose an inter-market burden on competition because any options exchange could offer similar functionality.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

[34] *See* Phlx Options 3, Section 14(f)(iii)(C).

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 [35] and Rule 19b–4(f)(6) thereunder.[36] Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A)(iii) of the Act [37] and subparagraph (f)(6) of Rule 19b–4 thereunder.[38]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [39] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [40] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the Exchange may immediately update its rules to provide greater detail with respect to the generation, execution, and removal of Legging Orders. The Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[41]

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–MRX–2023–22 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–MRX–2023–22. 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–MRX–2023–22 and should be submitted on or before January 2, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[42]

Sherry R. Haywood,

Assistant Secretary.

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[35] 15 U.S.C. 78s(b)(3)(A)(iii).

[36] 17 CFR 240.19b–4(f)(6).

[37] 15 U.S.C. 78s(b)(3)(A)(iii).

[38] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[39] 17 CFR 240.19b–4(f)(6).

[40] 17 CFR 240.19b–4(f)(6)(iii).

[41] 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).

[42] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99091; File No. SR–NYSE–2023–49]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Sections 902.02 and 902.03 of the NYSE Listed Company Manual To Amend Its Initial Listing Fee and Certain of Its Annual Fees

December 6, 2023.

Pursuant to section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') and Rule 19b–4 thereunder,[2] notice is hereby given that on December 1, 2023, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Sections 902.02 and 902.03 of the NYSE Listed Company Manual (the ''Manual') to amend its initial listing fee and certain of its annual fees charged to listed issuers. 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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its initial listing fee and certain of its annual fees charged to listed issuers as set forth in Sections 902.02 and 902.03 of the Manual. The proposed changes will take effect from the beginning of the calendar year commencing on January 1, 2024.

The Exchange currently charges a flat initial listing fee of $295,000 the first time an issuer lists a class of common shares on the Exchange. The Exchange proposes to increase this flat initial listing fee by $5,000 from $295,000 to $300,000. Section 902.03 of the Manual contains examples of how listing fees are calculated for certain UPREITs, U.S. issuers and foreign private issuers. The Exchange proposes to make conforming changes to these examples in Section 902.03 to reflect the new $300,000 flat initial listing fee.

The Exchange currently charges an annual fee of $0.001215 per share for each of the following: a primary class of common shares (including Equity Investment Tracking Stocks); each additional class of common shares (including tracking stock); a primary class of preferred stock (if no class of common shares is listed); each additional class of preferred stock (whether primary class is common or preferred shares); and each class of warrants or rights. The Exchange proposes to change the per share annual fee for the foregoing classes of securities from $0.001215 per share to $0.001265 per share.

The proposed increase in the initial listing fee and the per share rates for annual fees reflect increases in the costs the Exchange incurs in providing services to listed companies on an ongoing basis, as well as increases in the costs of conducting its related regulatory activities. As described below, the Exchange proposes to make the aforementioned fee increases to better reflect the Exchange's costs related to listing equity securities and the corresponding value of such listing to companies.

The revised annual fees will be applied in the same manner to all issuers with listed securities in the affected categories and the Exchange believes that the changes will not disproportionately affect any specific category of issuers.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[3] in general, and furthers the objectives of section 6(b)(4)[4] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges. The Exchange also believes that the proposed rule change is consistent with section 6(b)(5) of the Act,[5] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that it is not unfairly discriminatory and represents an equitable allocation of reasonable fees to amend sections 902.02 and 902.03 to increase the initial listing fee and annual fees for the various categories of equity securities as set forth above because of the increased costs incurred by the Exchange since it established the current rates.

The Proposed Changes Are Reasonable

The Exchange believes that the proposed changes to its initial listing fee and the annual fee schedule are reasonable. In that regard, the Exchange notes that its general costs to support its listed companies have increased, including due to price inflation. The Exchange also continues to expand and improve the services it provides to listed companies. Specifically, the Exchange has (among other things) increased expenditure on listed companies and the value of an NYSE listing by expanding the NYSE Institute, whose focus includes providing thought leadership and advocacy on behalf of listed companies.

The Exchange operates in a highly competitive marketplace for the listing of the various categories of securities affected by the proposed annual fee adjustments. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS,[6] the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [7]

The Exchange believes that the ever-shifting market share among the exchanges with respect to new listings and the transfer of existing listings between competitor exchanges demonstrates that issuers can choose different listing markets in response to fee changes. Accordingly, competitive forces constrain exchange listing fees. Stated otherwise, changes to exchange listing fees can have a direct effect on the ability of an exchange to compete for new listings and retain existing listings.

Given this competitive environment, the adoption of the proposed increase to the initial listing fee and annual fees for various categories of equity securities represents a reasonable attempt to address the Exchange's increased costs in servicing these listings while continuing to attract and retain listings.

The Exchange proposes to make the aforementioned fee increases in Sections 902.02 and 902.03 to better reflect the value of such listing to issuers.

The Proposal Is an Equitable Allocation of Fees

The Exchange believes its proposal equitably allocates its fees among its market participants.

The Exchange believes that the proposed amendments to the initial listing fee and annual fees for equity securities are equitable because they do not change the existing framework for such fees, but simply increase the amount of the flat initial listing fee and per unit annual fee to reflect increased operating costs. Similarly, as the fee structure remains effectively unchanged apart from the proposed increases in the rates paid by all issuers, the changes to the initial listing fee or annual fees for equity securities neither target nor will they have a disparate impact on any particular category of issuer.

The Proposal Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory.

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(4).

[5] 15 U.S.C. 78f(b)(5).

[6] Securities Exchange Act Release No. 34–51808 (June 9, 2005); 70 FR 37496 (June 29, 2005) (''Regulation NMS'').

[7] *See* Regulation NMS, 70 FR at 37499.

The proposed fee changes are not unfairly discriminatory among issuers of operating company equity securities because the same fee schedule will apply to all such issuers. Further, the Exchange operates in a competitive environment and its fees are constrained by competition in the marketplace. Other venues currently list all of the categories of securities covered by the proposed fees and if a company believes that the Exchange's fees are unreasonable it can decide either not to list its securities or to list them on an alternative venue.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

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 proposed rule change is designed to ensure that the fees charged by the Exchange accurately reflect the services provided and benefits realized by listed companies. The market for listing services is extremely competitive. Each listing exchange has a different fee schedule that applies to issuers seeking to list securities on its exchange. Issuers have the option to list their securities on these alternative venues based on the fees charged and the value provided by each listing. Because issuers have a choice to list their securities on a different national securities exchange, the Exchange does not believe that the proposed fee changes impose a burden on competition.

Intramarket Competition

The proposed amended fees will be charged to all listed issuers on the same basis. The Exchange does not believe that the proposed amended fees will have any meaningful effect on the competition among issuers listed on the Exchange.

Intermarket Competition

The Exchange operates in a highly competitive market in which issuers can readily choose to list new securities on other exchanges and transfer listings to other exchanges if they deem fee levels at those other venues to be more favorable. Because competitors are free to modify their own fees, and because issuers may change their chosen listing venue, the Exchange does not believe its proposed fee change can impose any burden on intermarket competition.

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 foregoing rule change is effective upon filing pursuant to section 19(b)(3)(A)[8] of the Act and subparagraph (f)(2) of Rule 19b–4[9] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under section 19(b)(2)(B)[10] 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–2023–49 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–2023–49. 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–2023–49 and should be submitted on or before January 2, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–27157 Filed 12–11–23; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(2).

[10] 15 U.S.C. 78s(b)(2)(B).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99098; File No. SR–NSCC–2023–012]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Clearing Agency Risk Management Framework

December 6, 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 December 1, 2023, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. NSCC filed the proposed rule change pursuant to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(4) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change of National Securities Clearing Corporation (''NSCC'') is provided hereto [sic] as Exhibit 5 and amends the Clearing Agency Risk Management Framework (''Risk Management Framework'', or ''Framework'') of NSCC and its affiliates, The Depository Trust Company (''DTC'') and Fixed Income Clearing Corporation (''FICC,'' and together with NSCC and DTC, the ''Clearing Agencies'').[5] The proposed rule change would amend the Risk Management Framework to clarify and revise the descriptions of certain matters within the Framework, as further described below. The proposed changes would update and clarify the Risk Management Framework but do not reflect changes to how the Clearing Agencies comply with the applicable requirements of Rule 17Ad–22(e), as described in greater detail below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Clearing Agencies adopted the Risk Management Framework[6] to provide an outline for how each of the Clearing Agencies (i) maintains a well-founded, clear, transparent and enforceable legal basis for each aspect of its activities; (ii) comprehensively manages legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by it; (iii) identifies, monitors, and manages risks related to links it establishes with one or more clearing agencies, financial market utilities, or trading markets; (iv) meets the requirements of its participants and the markets it serves efficiently and effectively; (v) uses, or at a minimum accommodates, relevant internationally accepted communication procedures and standards in order to facilitate efficient payment, clearing and settlement; and (vi) publicly discloses certain information, including market data. In this way, the Risk Management Framework currently supports the Clearing Agencies' compliance with Rules 17Ad–22(e)(1), (3), (20), (21), (22) and (23) of the Standards,[7] as described in the Framework Filings. In addition to setting forth the way each of the Clearing Agencies addresses these requirements, the Risk Management Framework also contains a section titled ''Framework Ownership and Change Management'' that, among other matters, describes the Framework ownership and the required governance process for review and approval of changes to the Framework. In connection with the annual review and approval of the Framework by the Board of Directors of NSCC, DTC and FICC (each a ''Board'' and collectively, the ''Boards''), the Clearing Agencies are proposing to make certain revisions to the Framework.

The proposed changes would clarify and enhance the descriptions in the Risk Management Framework, for example, (i) clarify the cadence of publication of disclosure frameworks; (ii) clarify the description of the Clearing Agencies recovery and wind-down processes and procedures; and (iii) make other non-substantive clarifying and clean-up changes to the Framework. Each of these categories of changes are discussed in further detail below.

i. Proposed Amendment To Clarify the Cadence of Publication of Disclosure Frameworks

Section 4.1 of the Framework describes certain tools provided to Clearing Agency participants to assist participants in understanding the Clearing Agencies' products and services and their use. One such tool is the publication of disclosure frameworks to the DTCC website. The proposed change would enhance the description in the third bullet of Section 4.1, to add that although each of the Clearing Agencies publish to the DTCC website disclosure frameworks that are updated on a biennial basis, such frameworks are also updated more frequently for material changes.

ii. Proposed Amendment To Clarify the Description of Recovery and Wind-Down

Section 5 of the Framework describes the Clearing Agencies identification of scenarios that may potentially prevent them from being able to provide critical operations and services, and assessment of options for recovery and orderly wind-down, and maintenance of appropriate plans for recovery and orderly wind-down. The proposed changes to Section 5 are primarily rephrasing and grammatical choices that clarify the Framework and conform the language in the Framework to the Clearing Agencies' stand-alone Recovery and Wind-Down Plans.

iii. Proposed Amendment To Make Other Non-Substantive Clarifying Changes

These proposed changes consist of rephrasing for clarity and removal of unnecessary language in the Framework. These changes include: (i) changes to Section 1 to simplify the description of other documentation of the Clearing Agencies that support the activities described in the Framework by removing statements regarding the maintenance of those documents that are not relevant to the operation of this Framework and removing redundant sentences; (ii) add ''and'' for grammatical purposes in the second sentence of the last paragraph of Section 3.2 as well as the words ''when required'' as clarifying language; (3) remove the words ''Market Risk'' from the heading ''*Clearing Agency Stress Testing Framework*'' in Section 3.3.3 and add ''liquidity resources'' to align with other documentation of the Clearing Agencies; (4) deletion of the word ''all'' in various sentences in Section 4.2.2, as unnecessary.

2. Statutory Basis

The Clearing Agencies believe that the proposed changes are consistent with section 17A(b)(3)(F) of the Act[8] for the reasons described below. Section 17A(b)(3)(F) of the Act requires, in part,

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(4).

[5] *See* Securities Exchange Act Release Nos. 81635 (September 15, 2017), 82 FR 44224 (September 21, 2017) (SR–DTC–2017–013; SR–FICC–2017–016; SR–NSCC–2017–012) (''Initial Filing'') and Securities Exchange Act Release Nos. 89271 (July 09, 2020), 85 FR 42933 (July 15, 2020) (SR–NSCC–2020–012); Securities Exchange Act Release No. 89269 (July 09, 2020), 85 FR 42954 (July 15, 2020) (SR–DTC–2020–009); and Securities Exchange Act Release No. 89270 (July 09, 2020), 85 FR 42927 (July 15, 2020) (SR–FICC–2020–007) (together with the Initial Filing, the ''Framework Filings'').

[6] *Supra* note 5.

[7] 17 CFR 240.17Ad–22(e)(1), (3), (20), (21), (22) and (23).

[8] 15 U.S.C. 78q–1(b)(3)(F).

that the rules of a registered clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[9] The proposed changes would clarify the descriptions of certain matters within the Framework to improve comprehensiveness and align with other documentation of the Clearing Agencies, as described above. By creating clearer, updated descriptions, the Clearing Agencies believe that the proposed changes would make the Risk Management Framework more effective in providing an overview of the important risk management activities of the Clearing Agencies, as described therein.

As described in the Framework Filings, the risk management functions described in the Risk Management Framework allow the Clearing Agencies to continue to promote the prompt and accurate clearance and settlement of securities transactions and continue to assure the safeguarding of securities and funds which are in their custody or control or for which they are responsible notwithstanding the default of a member of an affiliated family. The proposed changes to improve the clarity and accuracy of the descriptions of risk management functions within the Framework would assist the Clearing Agencies in carrying out these risk management functions. Therefore, the Clearing Agencies believe these proposed changes are consistent with the requirements of section 17A(b)(3)(F) of the Act.[10]

(B) Clearing Agency's Statement on Burden on Competition

The Clearing Agencies do not believe that the proposed changes to the Framework described above would have any impact, or impose any burden, on competition. As described above, the proposed rule changes would improve the comprehensiveness of the Framework by creating clearer, updated descriptions, thereby making the Risk Management Framework more effective in providing an overview of the important risk management activities of the Clearing Agencies. As such, the Clearing Agencies do not believe that the proposed rule changes would have any impact on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NSCC has not received or solicited any written comments relating to this proposal. If any written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b–4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b–4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, *available at https://www.sec.gov/regulatory-actions/how-to-submitcomments.* General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at *tradingandmarkets@sec.gov* or 202–551–5777.

NSCC reserves the right not to respond to any comments received.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)[11] of the Act and paragraph (f)[12] of Rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NSCC–2023–012 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to file number SR–NSCC–2023–012. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*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 NSCC and on DTCC's website (*https://dtcc.com/legal/sec-rule-filings.aspx*). 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–NSCC–2023–012 and should be submitted on or before January 2, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–27162 Filed 12–11–23; 8:45 am]

BILLING CODE 8011–01–P

[9] *Id.*

[10] *Id.*

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99097; File No. SR–FICC–2023–016]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Clearing Agency Risk Management Framework

December 6, 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 December 1, 2023, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. FICC filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(4) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change of Fixed Income Clearing Corporation (''FICC'') is provided hereto [sic] as Exhibit 5 and amends the Clearing Agency Risk Management Framework (''Risk Management Framework'', or ''Framework'') of FICC and its affiliates, The Depository Trust Company (''DTC'') and National Securities Clearing Corporation (''NSCC,'' and together with FICC and DTC, the ''Clearing Agencies'').[5] The proposed rule change would amend the Risk Management Framework to clarify and revise the descriptions of certain matters within the Framework, as further described below. The proposed changes would update and clarify the Risk Management Framework but do not reflect changes to how the Clearing Agencies comply with the applicable requirements of Rule 17Ad–22(e), as described in greater detail below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Clearing Agencies adopted the Risk Management Framework [6] to provide an outline for how each of the Clearing Agencies (i) maintains a well-founded, clear, transparent and enforceable legal basis for each aspect of its activities; (ii) comprehensively manages legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by it; (iii) identifies, monitors, and manages risks related to links it establishes with one or more clearing agencies, financial market utilities, or trading markets; (iv) meets the requirements of its participants and the markets it serves efficiently and effectively; (v) uses, or at a minimum accommodates, relevant internationally accepted communication procedures and standards in order to facilitate efficient payment, clearing and settlement; and (vi) publicly discloses certain information, including market data. In this way, the Risk Management Framework currently supports the Clearing Agencies' compliance with Rules 17Ad–22(e)(1), (3), (20), (21), (22) and (23) of the Standards,[7] as described in the Framework Filings. In addition to setting forth the way each of the Clearing Agencies addresses these requirements, the Risk Management Framework also contains a section titled ''Framework Ownership and Change Management'' that, among other matters, describes the Framework ownership and the required governance process for review and approval of changes to the Framework. In connection with the annual review and approval of the Framework by the Board of Directors of NSCC, DTC and FICC (each a ''Board'' and collectively, the ''Boards''), the Clearing Agencies are proposing to make certain revisions to the Framework.

The proposed changes would clarify and enhance the descriptions in the Risk Management Framework, for example, (i) clarify the cadence of publication of disclosure frameworks; (ii) clarify the description of the Clearing Agencies recovery and wind-down processes and procedures; and (iii) make other non-substantive clarifying and clean-up changes to the Framework. Each of these categories of changes are discussed in further detail below.

i. Proposed Amendment To Clarify the Cadence of Publication of Disclosure Frameworks

Section 4.1 of the Framework describes certain tools provided to Clearing Agency participants to assist participants in understanding the Clearing Agencies' products and services and their use. One such tool is the publication of disclosure frameworks to the DTCC website. The proposed change would enhance the description in the third bullet of Section 4.1, to add that although each of the Clearing Agencies publish to the DTCC website disclosure frameworks that are updated on a biennial basis, such frameworks are also updated more frequently for material changes.

ii. Proposed Amendment To Clarify the Description of Recovery and Wind-Down

Section 5 of the Framework describes the Clearing Agencies identification of scenarios that may potentially prevent them from being able to provide critical operations and services, and assessment of options for recovery and orderly wind-down, and maintenance of appropriate plans for recovery and orderly wind-down. The proposed changes to Section 5 are primarily rephrasing and grammatical choices that clarify the Framework and conform the language in the Framework to the Clearing Agencies' stand-alone Recovery and Wind-Down Plans.

iii. Proposed Amendment To Make Other Non-Substantive Clarifying Changes

These proposed changes consist of rephrasing for clarity and removal of unnecessary language in the Framework. These changes include: (i) changes to Section 1 to simplify the description of other documentation of the Clearing Agencies that support the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(4).

[5] *See* Securities Exchange Act Release Nos. 81635 (September 15, 2017), 82 FR 44224 (September 21, 2017) (SR–DTC–2017–013; SR–FICC–2017–016; SR–NSCC–2017–012) (''Initial Filing'') and Securities Exchange Act Release Nos. 89271 (July 09, 2020), 85 FR 42933 (July 15, 2020) (SR–NSCC–2020–012); Securities Exchange Act Release No. 89269 (July 09, 2020), 85 FR 42954 (July 15, 2020) (SR–DTC–2020–009); and Securities Exchange Act Release No. 89270 (July 09, 2020), 85 FR 42927 (July 15, 2020) (SR–FICC–2020–007) (together with the Initial Filing, the ''Framework Filings'')

[6] *Supra* note 5.

[7] 17 CFR 240.17Ad–22(e)(1), (3), (20), (21), (22) and (23).

activities described in the Framework by removing statements regarding the maintenance of those documents that are not relevant to the operation of this Framework and removing redundant sentences; (ii) add ''and'' for grammatical purposes in the second sentence of the last paragraph of Section 3.2 as well as the words ''when required'' as clarifying language; (3) remove the words ''Market Risk'' from the heading ''*Clearing Agency Stress Testing Framework*'' in Section 3.3.3 and add ''liquidity resources'' to align with other documentation of the Clearing Agencies; (4) deletion of the word ''all'' in various sentences in Section 4.2.2, as unnecessary.

2. Statutory Basis

The Clearing Agencies believe that the proposed changes are consistent with section 17A(b)(3)(F) of the Act [8] for the reasons described below. Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a registered clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[9] The proposed changes would clarify the descriptions of certain matters within the Framework to improve comprehensiveness and align with other documentation of the Clearing Agencies, as described above. By creating clearer, updated descriptions, the Clearing Agencies believe that the proposed changes would make the Risk Management Framework more effective in providing an overview of the important risk management activities of the Clearing Agencies, as described therein.

As described in the Framework Filings, the risk management functions described in the Risk Management Framework allow the Clearing Agencies to continue to promote the prompt and accurate clearance and settlement of securities transactions and continue to assure the safeguarding of securities and funds which are in their custody or control or for which they are responsible notwithstanding the default of a member of an affiliated family. The proposed changes to improve the clarity and accuracy of the descriptions of risk management functions within the Framework would assist the Clearing Agencies in carrying out these risk management functions. Therefore, the Clearing Agencies believe these proposed changes are consistent with the requirements of section 17A(b)(3)(F) of the Act.[10]

(B) Clearing Agency's Statement on Burden on Competition

The Clearing Agencies do not believe that the proposed changes to the Framework described above would have any impact, or impose any burden, on competition. As described above, the proposed rule changes would improve the comprehensiveness of the Framework by creating clearer, updated descriptions, thereby making the Risk Management Framework more effective in providing an overview of the important risk management activities of the Clearing Agencies. As such, the Clearing Agencies do not believe that the proposed rule changes would have any impact on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

FICC has not received or solicited any written comments relating to this proposal. If any written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b–4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b–4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, *available at https://www.sec.gov/regulatory-actions/how-to-submitcomments.* General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at *tradingandmarkets@sec.gov* or 202–551–5777.

FICC reserves the right not to respond to any comments received.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) [11] of the Act and paragraph (f) [12] of Rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–FICC–2023–016 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to file number SR–FICC–2023–016. 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 FICC and on DTCC's website (*https://dtcc.com/legal/sec-rule-filings.aspx*). Do not include personal identifiable

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] *Id.*

[10] *Id.*

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f).

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–FICC–2023–016 and should be submitted on or before January 2, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–27160 Filed 12–11–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99096; File No. SR–MSRB–2023–06]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Establish the 2024 Rate Card Fees for Dealers and Municipal Advisors Pursuant to MSRB Rules A–11 and A–13

December 6, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 30, 2023, the Municipal Securities Rulemaking Board (''MSRB'' or ''Board'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. 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 MSRB filed with the Commission a proposed rule change to amend, consistent with the MSRB's annual rate-setting process (''Annual Rate Card Process''):[3] (i) Supplementary Material .01 to Rule A–11 to modify the rate of assessment for the annual rate card fees on municipal advisors for covered professionals under Rule A–11(b) (the ''Municipal Advisor Professional Fee''); and (ii) Supplementary Material .01 to Rule A–13 to modify the rate of assessments for the annual rate card fees on brokers, dealers, and municipal securities dealers (collectively, ''dealers'') for certain underwriting fees under Rule A–13(b), transaction fees under Rule A–13(d)(i) and (ii), and trade count fees under Rule A–13(d)(iv)(a) and (b) (collectively, the ''Market Activity Fees'' and, together with the Municipal Advisor Professional Fee, the ''Rate Card Fees''). The proposed amendments to Supplementary Material .01 to Rule A–11 and Supplementary Material .01 to Rule A–13 collectively make up the ''proposed rule change''.

The MSRB has designated the proposed rule change for immediate effectiveness.[4] The new Rate Card Fees reflected in the proposed rule change will become effective as of January 1, 2024.[5]

The text of the proposed rule change is available on the MSRB's website at *https://msrb.org/2023-SEC-Filings,* at the MSRB's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the MSRB included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The MSRB has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the rate of assessments for the MSRB's Rate Card Fees under its Annual Rate Card Process. The Annual Rate Card Process was established in 2022 to create a process by which the four individual Rate Card Fees would be adjusted on an annual basis under a single rate setting process.[6] In conjunction with the establishment of the Annual Rate Card Process, the MSRB established its initial Annual Rate Card to implement Rate Card Fees intended to remain in effect through calendar year 2023 (the ''2023 Rate Card''), with new Rate Card Fees expected to be established for subsequent calendar years. Pursuant to this process and consistent with the MSRB's funding policy (the ''MSRB Funding Policy''),[7] the MSRB has conducted its annual review of the Rate Card Fees and has determined that an adjustment is necessary and appropriate to defray the costs and expenses of operating and administering the MSRB.[8] Accordingly, the proposed rule change would effectuate a new Annual Rate Card (the ''2024 Rate Card'') which will remain in effect until a subsequent proposed rule change amending the Rate Card Fees becomes effective.[9]

MSRB Review of the Proposed Rate Card Fees for Fiscal Year 2024

The MSRB undertook the Annual Rate Card Process as described in the MSRB Funding Policy to establish the proposed Rate Card Fees for 2024. The Annual Rate Card Process is intended to establish a fee structure that is more transparent and predictable for the MSRB's stakeholders while also retaining the MSRB's flexibility to react to changing market or budgetary circumstances when establishing reasonable fees to be paid by regulated entities. The Annual Rate Card Process consists of: (i) developing the fiscal year operational funding level for the upcoming fiscal year, (ii) reconciling any material reserves variances, (iii) incorporating other anticipated revenue for the upcoming fiscal year, (iv) validating contribution targets and reconciling any rate card fee variances from the prior fiscal year, and (v) setting rates of assessment for the Annual Rate Card based on forecasted volume of activity for the coming fiscal year.

Development of the Fiscal Year Operational Funding Level. In July 2023, the board of directors of the MSRB

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 95417 (Aug. 3, 2022), 87 FR 48530 (Aug. 9, 2022), File No. SR–MSRB–2022–06 (establishing the MSRB's Annual Rate Card Process with respect to the setting of certain fee rates each calendar year (an ''Annual Rate Card'') and setting the initial Rate Card Fees through December 31, 2023) (the ''Annual Rate Card Process Notice'').

[4] The MSRB has designated the proposed rule change as establishing or changing a due, fee, or other charge under Section 19(b)(3)(A)(ii) of the Exchange Act (15 U.S.C. 78s(b)(3)(A)(ii)) and Rule 19b–4(f)(2) (17 CFR 240.19b–4(f)(2)) thereunder.

[5] Rate Card Fees for activities occurring prior to the January 1, 2024 effectiveness of the new rates will continue to accrue at the rates in effect prior to that date.

[6] *See supra* note 3.

[7] Available at *https://www.msrb.org/MSRB-Funding-Policy-0.* The board of directors of the MSRB approved its current Funding Policy on July 28, 2022 with an effective date of October 1, 2022.

[8] *See* Section 15B(b)(2)(J) of the Exchange Act (15 U.S.C. 78*o*–4(b)(2)(J)).

[9] The MSRB anticipates amending the rates of assessment for the Rate Card Fees specified in the 2024 Rate Card with a subsequent rule filing with the Commission that would become effective as of January 1, 2025 for the calendar year 2025.

approved an annual expense budget of approximately $47.4 million for Fiscal Year 2024, which represents a 4.8% increase over the prior fiscal year, and thereby established the baseline revenue that the organization will need to operate (*i.e.,* the ''Operational Funding Level'').[10]

Reconciliation of Any Material Reserves Variances. Material reserves variances versus the MSRB's reserves target at the end of the prior fiscal year are also considered and may be added to or subtracted from the Operational Funding Level to develop a final ''Budgeted Revenue Target'' for a given fiscal year. For the 2024 Rate Card, based on the current reserves target and reserves philosophy, there were no resulting adjustments to the Operational Funding Level; therefore, the Budgeted Revenue Target is equal to the Operational Funding Level of approximately $47.4 million.[11]

Incorporation of Other Anticipated Revenue. Forecasted revenue for Fiscal Year 2024 from sources other than the Rate Card Fees (*e.g.,* annual and initial fees, data subscriptions, municipal fund underwriting fees and fine revenue) was established as part of the annual budget approved by the board of directors in July 2023, and that estimate was subtracted from the Budgeted Revenue Target to determine the total amount of funding needed to be generated from the Rate Card Fees established in the 2024 Rate Card (the ''Rate Card Funding Amount''). For Fiscal Year 2024, approximately $6.9 million is expected from other revenue sources, which reduced the Rate Card Funding Amount for 2024 to approximately $40.5 million.[12]

Validation of Contribution Targets and Reconciliation of Any Rate Card Fee Variances from the Prior Fiscal Year. Each of the four Rate Card Fees are responsible for a proportionate amount of the overall Rate Card Funding Amount (each a ''Proportional Contribution Amount''). The MSRB maintains a fair and equitable balance of the Proportional Contribution Amounts by calculating contribution targets in line with recent historical precedents. The MSRB intends to maintain fairness and equity in fees through relatively stable contribution targets. Annually, the MSRB considers the historical revenue performance of each fee over time to assess whether there is a durable, material shift in market structure or circumstances that would indicate that the expectations for the relative contributions from one or more fees are no longer reasonable or appropriate. For the initial Rate Card Fees established in 2022 under the Annual Rate Card Process for 2023, the MSRB established contribution targets based on the distribution of revenue assessed over the prior two completed fiscal years (Fiscal Year 2020 and Fiscal Year 2021).[13] Since that time, material changes in the municipal market and broader macroeconomic conditions, including significantly higher interest rates, have materially shifted the balance of market activity. Specifically, primary market activity has been significantly lower and secondary market activity has been significantly higher. As a result, the MSRB determined that a durable, material shift in market structure or circumstances warranted adjustments to the contribution targets. For the Rate Card Fees proposed in this filing intended to be effective beginning on January 1, 2024, the Rate Card Funding Amount was allocated to the Rate Card Fees based on the following contribution targets: underwriting fee at 30%; transaction fee at 41%; trade count fee at 21%; and Municipal Advisor Professional Fee at 8%.[14] This resulted in Proportional Contribution Amounts as follows for Fiscal Year 2024: underwriting fee of $12.15 million; transaction fee of $16.61 million; trade count fee of $8.51 million; and Municipal Advisor Professional Fee of $3.24 million.

Rate Card Fee variances between the budget and actual results of the Rate Card Fees for Fiscal Year 2023 were added to or subtracted from the respective Proportional Contribution Amount for each fee (''Final Contribution Amount'').[15]

Forecast of Expected Activity and Setting the Annual Rate Card. The MSRB used historical and current data to inform the expectations for volume of activity for the coming fiscal year. Based on the anticipated volume of activity, the MSRB calculated rates of assessment for each of the Rate Card Fees to generate their respective Final Contribution Amounts for Fiscal Year 2024.[16] To the extent that the volume of activity for Fiscal Year 2024 varies from the expectations used to calculate the rates of assessment, the resulting Rate Card Fee Variances in Fiscal Year 2024 will be incorporated into the next Annual Rate Card using the same process as described in the prior paragraph. The rates of assessment are subject to the limitations described below as applicable.

Limitations on Rate Changes To Promote Predictability and Stability

The MSRB included in the Annual Rate Card Process limitations on fee increases from year-to-year to promote greater predictability and stability.[17]

[10] *See* MSRB Fiscal Year 2024 Budget, available at *https://www.msrb.org/sites/default/files/2023-09/MSRB-FY-2024-Budget-Summary.pdf.*

[11] *See* MSRB Funding Policy, *supra* note 7.

[12] *See* MSRB Fiscal Year 2024 Budget, *supra* note 10.

[13] Contribution targets used for the 2023 Rate Card Fees were: underwriting fee 37%, transaction fee 39%, trade count fee 16%, Municipal Advisor Professional Fee 8%. *See* the Annual Rate Card Process Notice, *supra* note 3.

[14] These contribution targets were determined by averaging the distribution of revenue assessed for Rate Card Fees over the past two fiscal years (Fiscal Year 2022 and Fiscal Year 2023) and the distribution of revenue assessed for Rate Card Fees over the past five fiscal years (Fiscal Year 2019 through Fiscal Year 2023). These two periods of time were used to reflect a balance of current market conditions and a longer-term historical precedent. To make the data comparable across fiscal years, the calculations were completed using the Market Activity Fee rates that were in place prior to the 2023 Rate Card, excluding the impact of the temporary fee reductions, and calculated as if the Municipal Advisor Professional Fee rate of $1,000 per covered professional that was in place for Fiscal Years 2021 and 2022 had been in place for all Fiscal Years used in the calculations. Resulting contribution targets were rounded to the nearest whole percent. *See* MSRB Fiscal Year 2024 Budget, *supra* note 10.

[15] In Fiscal Year 2023, the underwriting fee had a shortfall of $3.37 million versus budget. This shortfall was added to the Proportional Contribution Amount for the underwriting fee of $12.15 million to determine the Final Contribution Amount of $15.52 million. The transaction fee and trade count fee had surpluses versus budget of $2.73 million and $4.35 million, respectively. These surpluses were subtracted from the Proportional Contribution Amounts to determine the Final Contribution Amounts of $13.88 million for the transaction fee and $4.16 million for the trade count fee. Finally, the Municipal Advisor Professional Fee had a shortfall $0.04 million versus budget in FY 2023. This amount was added to the Proportion Contribution Target for the Municipal Advisor Professional Fee to determine the Final Contribution Amount of $3.28 million. *See* MSRB Fiscal Year 2024 Budget, *supra* note 10. *See also* MSRB Funding Policy, *supra* note 7.

[16] Consistent with the MSRB Funding Policy (*see supra* note 7), the assumptions used for expected volume of activity in Fiscal Year 2024 are as follows: underwriting fee of $400 billion in par underwritten; transaction fee of $1.527 trillion in par transacted (five-year average volume); trade count fee of 7.34 million trades (five-year average volume); Municipal Advisor Professional Fee of 2,830 municipal advisor professionals. The board of directors of the MSRB uses the best available information and business judgment to set expected volumes of activity for the coming fiscal year, which consists of an evaluation of and reliance on historical volume and averages, as well as observable trends and patterns. *See also* MSRB Fiscal Year 2024 Budget, *supra* note 10.

[17] If the full amount of a negative Rate Card Fee variance cannot be recaptured in a single year due to these limitations, the remaining amount of such variance will carry over into the calculation of the Rate Card Funding Amount for the following fiscal year(s) and, all else being equal, increase the rate of assessment for such Rate Card Fee. Conversely, there are no limits on potential decreases to the rates of assessment for the Rate Card Fees that may result from Positive Rate Card Fee Variances and,

Continued

This included a 25% cap on the maximum increase in the assessment rate for an individual Rate Card Fee based on the highest assessment rate in the previous two annual rate cards. This cap is intended to limit large increases in rates of assessment for the Rate Card Fees in instances where expected volume decreases significantly from the prior year.[18] For the 2024 Rate Card, the initial calculation for the underwriting fee resulted in a rate of assessment that exceeded 25% over the underwriting fee rate in the 2023 Rate Card. As a result, the underwriting fee rate for 2024 was capped at a 25% increase over the 2023 rate. Due to this limitation, the MSRB anticipates that the full amount of the negative Rate Card Fee variance for the underwriting fee in 2023 will not be fully recaptured in 2024 and the remaining shortfall will carry over into the calculation for the next Annual Rate Card.

Proposed 2024 Rate Card. The MSRB uses adjustments to the Annual Rate Card to set and revise the Rate Card Fees in the 2024 Rate Card to levels that it anticipates will be sufficient to: (i) cover anticipated expenses for the related fiscal year, (ii) maintain target contribution balances between fees on regulated entities, (iii) address any prior-year variance between the amounts of each of the Rate Card Fees actually collected versus budget, and (iv) address any variance between the amount of the MSRB's organizational reserves versus the MSRB's reserves target.

The proposed rule change would establish the Municipal Advisor Professional Fee specified in Rule A–11 and the Market Activity Fees specified in Rule A–13 in accordance with the chart below.

	Basis	Current rate for 2023	Proposed rate for 2024
Underwriting Fee	Per $1,000 Par Underwritten	$0.0297	$0.0371
Transaction Fee	Per $1,000 Par Transacted	0.0107	0.0091
Trade Count Fee	Per Trade	1.10	0.57
Municipal Advisor Professional Fee	Per Covered Professional	1,060	1,160

Consistent with the MSRB Funding Policy, the proposed Rate Card Fees in the 2024 Rate Card reflect the formulaic results of executing the Annual Rate Card Process as detailed above.[19]

In order to effect these changes and set the Rate Card Fees in the 2024 Rate Card, the MSRB proposes to amend Supplementary Material .01, on Annual Rate Card Fee, to MSRB Rule A–11 to modify the 2023 rate contained therein for the Municipal Advisor Professional Fee to the proposed rate for 2024 identified in the chart above and to clarify that the calculation of the Municipal Advisor Professional Fee is based on the number of covered professionals as of January 31, 2024, rather than 2023, and as of January 31 of each subsequent, applicable year thereafter.[20] The MSRB also proposes to amend the second sentence of Supplementary Material .01, on Annual Rate Card Fee, to MSRB Rule A–11 to replace the initial word ''The'' with ''Any'' to clarify the process for future Annual Rate Card Fee amendments. In addition, the MSRB proposes to amend Supplementary Material .01, on Annual Rate Card Fees, to MSRB Rule A–13 to modify the 2023 rates contained therein for the underwriting fee, transaction fee and trade count fee to the respective proposed rates for 2024 identified in the chart above. The MSRB also proposes to amend Supplementary Material .01, on Annual Rate Card Fees, to MSRB Rule A–13 to change the month that rates of assessment become effective, from ''October'' to ''January'' as the reference to ''October'' was applicable only to establish the first Annual Rate Card, as discussed in the Annual Rate Card Process Notice. Lastly, the MSRB proposes to amend the first word of the last paragraph of Supplementary Material .01, on Annual Rate Card Fees, to MSRB Rule A–13 to replace the word ''The'' with ''Any'' to clarify the process for future Annual Rate Card Fee amendments.

These revised rates would become effective on January 1, 2024 and are expected to apply to activities occurring until a subsequent proposed rule change amending the Rate Card Fees becomes effective. The MSRB anticipates amending the rates of assessment specified in this proposed Annual Rate Card with a subsequent rule filing with the Commission that would become effective as of January 1, 2025.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(J) of the Exchange Act,[21] which states that the MSRB's rules shall provide that each municipal securities broker, municipal securities dealer, and municipal advisor shall pay to the MSRB such reasonable fees and charges as may be necessary or appropriate to defray the costs and expenses of operating and administering the MSRB.[22] Such rules must specify the amount of such fees and charges, which may include charges for failure to submit to the MSRB, or to any information system operated by the MSRB, within the prescribed

if warranted, Positive Reserves Variances. *See* the Annual Rate Card Process Notice, *supra* note 3. *See also* MSRB Funding Policy, *supra* note 7.

[18] There is an additional limitation of a 10% cap on the maximum increase in the targeted revenue for an individual Rate Card Fee based on the highest amount of such targeted revenue in the previous two Annual Rate Cards. This cap is intended to limit large increases in the rate of assessment for the Rate Card Fees to ensure that fee increases remain incremental and, accordingly, regulated entities have the time to operationalize such increases into their business models. In Fiscal Year 2024, no targeted revenue exceeded the 10% cap. Because the rates of assessment for Rate Card Fees are based on both the targeted revenue for the Rate Card Fee and the underlying volume or activity level on which the Rate Card Fee is assessed, the rates themselves are subject to a potentially higher level of variability than the underlying targeted revenue intended to be generated by each Rate Card Fee. As the Annual Rate Card Process returns any Positive Rate Card Fee Variances in the subsequent year, outperforming volume in one year cannot be used to buffer under-performing volume in another year. The 10% maximum cap on targeted revenue is intended to be the primary limitation on revenue increases. The 25% maximum cap on assessment rate increases is intended to be a supplemental limitation that balances the potential impact of rate changes driven by underlying volume changes while retaining the MSRB's ability to assess and collect sufficient revenue to fund the organization's expenses. *See* the Annual Rate Card Process Notice, *supra* note 3. *See also* MSRB Funding Policy, *supra* note 7.

[19] *See* MSRB Funding Policy, *supra* note 7.

[20] While the MSRB anticipates amending the rates of assessment for the Rate Card Fees specified in the 2024 Rate Card with a subsequent rule filing with the Commission that would become effective as of January 1, 2025 for the calendar year 2025, if the MSRB does not make such anticipated change, the Municipal Advisor Professional Fee for 2025 would be based on the number of covered professionals as of January 31, 2025.

[21] 15 U.S.C. 78*o*–4(b)(2)(J).

[22] *Id. See also* MSRB Fiscal Year 2024 Budget, *supra* note 10.

timeframes, any items of information or documents required to be submitted under any rule issued by the MSRB.[23]

The MSRB believes that the 2024 Rate Card provides for reasonable fees and charges to be paid by regulated entities. Moreover, the MSRB believes that the Rate Card Fees established in the 2024 Rate Card are necessary and appropriate to fund the operation and administration of the MSRB and, thereby, satisfy the requirements of Section 15B(b)(2)(J)[24] through a reasonable fee structure that ensures (i) an equitable balance of necessary and appropriate fees among regulated entities and (ii) a fair allocation of the burden of defraying the costs and expenses of the MSRB. Specifically, the MSRB believes that the 2024 Rate Card will achieve reasonable fees to be paid by regulated entities that (i) are necessary and appropriate to sustain the operation and administration of the MSRB by defraying the MSRB's anticipated Fiscal Year 2024 operating and administrative expenses; (ii) reasonably and appropriately allocate fees among firms by equitably distributing fees in accordance with each individual firm's overall market activities; and (iii) reasonably and appropriately adjust for the annual fluctuations in the volume of market activity as compared to budget expectation by incorporating the actual amounts of Market Activity Fees and Municipal Advisor Professional Fees collected as compared to budget into this and future rate-setting processes.[25] As a result, the MSRB believes that the proposed rule change satisfies the applicable requirements of Section 15B(b)(2)(J) of the Exchange Act.[26]

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 15B(b)(2)(C) of the Exchange Act[27] requires that MSRB rules not be designed to impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. The MSRB has considered the economic impact of the proposed rule change to Rule A–11 and Rule A–13.[28] The MSRB believes that the proposed Rate Card Fees established in the 2024 Rate Card for the calendar year of 2024 equitably and non-discriminatorily distribute the fee burden across all MSRB regulated entities who participate in the municipal securities market. In the 2024 Rate Card, the MSRB has proposed a rate increase for the underwriting fee, which would apply to all dealers who conduct underwriting activity, and for the Municipal Advisor Professional Fee, which would apply to all municipal advisor firms. In addition, the MSRB has proposed a rate decrease for the transaction fee and the trade count fee, which would apply to all dealers who conduct trading activities. While some firms may pay a higher (lower) share of fees than other firms when compared to Fiscal Year 2023,[29] the increases (decreases) are the result of the MSRB's reconciliation of Rate Card Fee variances from Fiscal Year 2023 and changes in contribution targets for the various fee categories, as well as the expected market activities for Fiscal Year 2024. As intended under the Annual Rate Card Process, no firm would be unduly burdened when compared to another firm over the course of multiple years; the MSRB therefore does not believe the proposed rule change would create any burden on competition for regulated entities, as the projected fee proportions for 2024 are in line with the targeted contribution balance previously set in connection with the 2023 Rate Card. Finally, the MSRB believes the proposed Rate Card Fees under the 2024 Rate Card would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

As a background to this analysis, the adoption by the MSRB in 2022 of its Annual Rate Card Process and the 2023 Rate Card introduced a new fee structure that would (i) maintain a fair and equitable balance of fees; (ii) better mitigate the impact of market volatility on the MSRB's revenue and reserve structure; and (iii) maintain rates within a reasonably predictable range.[30] The MSRB determined it was necessary and appropriate to devise a methodology that reasonably and appropriately defrays the costs and expenses of operating and administering the MSRB, with a goal of arriving at a long-term solution for the MSRB's revenue generation process and ensuring a sustainable financial position.[31] In addition, the MSRB believes the Rate Card Fee framework is more transparent and predictable for the MSRB's stakeholders in a manner that would reduce year-to-year variability in the MSRB's total fee assessments while also retaining the MSRB's ability to react to changing circumstances when establishing reasonable fees.[32]

The MSRB's Annual Rate Card Process devised an annual rate-setting method to recalculate fee rates every year for the underwriting fee, transaction fee, trade count fee, and Municipal Advisor Professional Fee.[33] The Annual Rate Card Process was designed to have more frequent but smaller downward and upward adjustments to keep budgeted revenues more closely aligned with budgeted expenses. It allows the MSRB to review a change in budgeted revenues and expenses relative to the prior year and any change in the actual reserves relative to the targeted reserves, assess the projected market activities for each category of fees in the upcoming year and incorporate any needed adjustments directly into the Annual Rate Card Process. Any over/under assessment in the prior year within each class of fee payer would be factored into any change in the fee rate for the subsequent year, in addition to accommodating any change in other considerations.[34]

Effect on Competition

The Rate Card Fees under the 2024 Rate Card established pursuant to the

[23] 15 U.S.C. 78*o*–4(b)(2)(J).

[24] *Id.*

[25] *See* the Annual Rate Card Process Notice, *supra* note 3.

[26] 15 U.S.C. 78*o*–4(b)(2)(J).

[27] 15 U.S.C. 78*o*–4(b)(2)(C).

[28] *See* Policy on the Use of Economic Analysis in MSRB Rulemaking, available at *https://www.msrb.org/Policy-Use-Economic-Analysis-MSRB-Rulemaking.* In evaluating whether there was any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act, the MSRB was guided by its principles that required the MSRB to consider costs and benefits of a rule change, its impact on efficiency, capital formation and competition, and the main reasonable alternative regulatory approaches. For those rule changes which the MSRB files for immediate effectiveness under Section 19(b)(3)(A) of the Exchange Act (15 U.S.C. 78s(b)(3)(A)), while not subject to the policy, the MSRB usually focuses its examination exclusively on the burden of competition on regulated entities.

[29] Because of the timing of the adoption of the Annual Rate Card Process, the 2023 Rate Card's effective date was October 1, 2022, and the Rate Card Fees thereunder remain effective until this proposed rule change amending those rates is filed and becomes effective as of January 1, 2024. Thereafter, the Rate Card Fees under the 2024 Rate Card would be effective for calendar year 2024 and would remain effective until a subsequent proposed rule change amending such Rate Card Fees is filed and becomes effective.

[30] *See* Annual Rate Card Process Notice, *supra* note 3.

[31] *See id.*

[32] *See id.* The MSRB adopted the new approach to reduce the variability in fee assessments from the impact of market volatility by adjusting for budget surpluses or shortfalls annually, therefore providing a better mechanism for effectively managing fee rates and reserve levels.

[33] *See id.* Fees not included in the Annual Rate Card are Municipal Fund Securities Underwriting Fee, Annual Assessment, Initial Registration Fee, Professional Qualification Exam Fees, and Late Fees.

[34] For example, change in annual expenses, change in projected market volume, prior year revenue changes as compared to budget, change in reserve target and certain limitations on fee increases.

proposed rule change represent the first calendar-year adjustments for Rate Card Fees since the adoption of the Annual Rate Card Process and the initial 2023 Rate Card. During Fiscal Year 2023, the MSRB collected below-the-projected amount from the underwriting fee and Municipal Advisor Professional Fee, but above-the-projected amount from the transaction fee and trade count fee. The results were largely driven by market activities that featured heavy secondary market trading but relatively light primary market issuance.[35] For the 2024 Rate Card, the MSRB has proposed a rate increase for the underwriting fee and the Municipal Advisor Professional Fee, and a rate decrease for the transaction fee and the trade count fee. These changes in rates are intended to reconcile with the Rate Card fee changes from Fiscal Year 2023 and are also based on the MSRB's Fiscal Year 2024 budget and projected revenues and expenses, reserve target, and projected activities in each category for calendar year 2024, to maintain in general the targeted contribution balance between fee categories.

The MSRB does not believe the proposed rule change would create any burden on competition for regulated entities, as the projected fee proportions for 2024 are in line with the targeted contribution balance previously set in connection with the 2023 Rate Card when the MSRB first adopted the Annual Rate Card Process. The MSRB believes the proposed rule change is necessary and appropriate to ensure prudent funding for the MSRB and that the changes to the Rate Card Fees are reasonably and fairly designed to be proportionately distributed across regulated entities in such a way that would not harm competition among regulated entities, nor otherwise harm the functioning of the municipal securities market. For example, while firms with underwriting activity may incur higher fees in 2024 than in Fiscal Year 2023 as a result of an increase in the underwriting fee, the transaction and trade count fees tied to their trading activity is expected to decrease assuming the same level of trading activity compared to the prior year. In addition, the increases and decreases are by design intended to reconcile with the changes year to year such that no firm would be unduly burdened as compared to another firm over the course of multiple years and the fee burden would be distributed equitably across all MSRB regulated entities.

Section 15B(b)(2)(L)(iv) of the Exchange Act[36] requires that MSRB rules not impose a regulatory burden on small municipal advisors that is not necessary or appropriate in the public interest and for the protection of investors, municipal entities, and obligated persons, provided that there is robust protection of investors against fraud. The MSRB believes that the increase for the Municipal Advisor Professional Fee would not impose an unnecessary or inappropriate regulatory burden on small municipal advisors. As the total amount of the assessment payable by each municipal advisory firm would continue to be proportional to the number of Forms MA–I filed by a firm and, therefore, would result in lower relative assessments for smaller firms. Based on the number of persons engaging in municipal advisory activities on behalf of a firm, the total fee would therefore bear a reasonable relationship to the level of regulated municipal advisory activities that are undertaken by each firm.

For the reasons noted above, the MSRB believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.[37]

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 on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[38] and paragraph (f) of Rule 19b–4 thereunder.[39] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MSRB–2023–06 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–MSRB–2023–06. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the MSRB. 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–MSRB–2023–06 and should be submitted on or before January 2, 2024.

[35] For example, in 2022, the municipal securities market had the highest par value traded since 2008 and the highest number of trades since 2005, and the market continues to experience higher-than-normal trading activities in 2023. On the other hand, the underwriting volume was below the yearly average in recent years between October 2022 and September 2023.

[36] 15 U.S.C. 78*o*–4(b)(2)(L)(iv).

[37] 15 U.S.C. 78*o*–4(b)(2)(C).

[38] 15 U.S.C. 78s(b)(3)(A).

[39] 17 CFR 240.19b–4(f).

For the Commission, pursuant to delegated authority.[40]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–27159 Filed 12–11–23; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99090; File No. SR–PEARL–2023–65]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Pearl Options Fee Schedule for Purge Ports

December 6, 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 22, 2023, MIAX PEARL, LLC (''MIAX Pearl'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the MIAX Pearl Options Exchange Fee Schedule (the ''Fee Schedule'') to amend fees for MIAX Express Network (''MEO'') [3] Purge Ports (''Purge Ports'').[4]

The text of the proposed rule change is available on the Exchange's website at *https://www.miaxglobal.com/markets/us-options/pearl-options/rule-filings* at MIAX Pearl's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend the fees for Purge Ports, which is a function enabling the Exchange's two types of Members,[5] Market Makers [6] and Electronic Exchange Members [7] (''EEMs''), to cancel all open orders or a subset of open orders through a single cancel message. The Exchange currently provides Members the option to purchase Purge Ports to assist in their quoting activity. Purge Ports provide Members with the ability to send purge messages to the Exchange System.[8] Purge Ports are not capable of sending or receiving any other type of messages or information. The use of Purge Ports is completely optional and no rule or regulation requires that a Market Maker utilize them.

The Exchange initially filed the proposal on September 29, 2023 (SR–PEARL–2023–52) (the ''Initial Proposal'').[9] On November 22, 2023, the Exchange withdrew the Initial Proposal and replaced it with this filing.

Unlike other options exchanges that charge fees for Purge Ports on a per port basis,[10] the Exchange assesses a flat fee of $750 per month, regardless of the number of Purge Ports utilized by a Market Maker. Currently, a Market Maker may request and be allocated two (2) Purge Ports per Matching Engine [11] to which it connects and not all Members connect to all of the Exchange's Matching Engines.

The Exchange now proposes to amend the fee for Purge Ports to align more closely with other exchanges who charge on a per port basis by providing two (2) Purge Ports per Matching Engine for a monthly flat fee of $600 per month per Matching Engine. The only difference with a per port structure is that Members receive two (2) Purge Ports per Matching Engine for the same proposed monthly fee, rather than being charged a separate fee for each Purge Port. The Exchange proposes to charge the proposed fee for Purge Ports per Matching Engine, instead on a per Purge Port basis, due to its System architecture which provides two (2) Purge Ports per Matching Engine for redundancy purposes. In addition, the proposed fee is lower than the comparable fee charged by competing exchanges that also charge on a per port basis, notwithstanding that the Exchange is providing up to two (2) Purge Ports for that same lower fee.[12]

Similar to a per port charge, Members are able to select the Matching Engines that they want to connect to,[13] based on the business needs of each Market Maker, and pay the applicable fee based on the number of Matching Engines and ports utilized. The Exchange believes

[40] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ''MEO Interface'' or ''MEO'' means a binary order interface for certain order types as set forth in Rule 516 into the MIAX Pearl System. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[4] The proposed fee change is based on a recent proposal by Nasdaq Phlx LLC (''Phlx'') to adopt fees for purge ports. *See* Securities Exchange Act Release No. 97825 (June 30, 2023), 88 FR 43405 (July 7, 2023) (SR–Phlx–2023–28).

[5] The term ''Member'' means an individual or organization that is registered with the Exchange pursuant to Chapter II of Exchange Rules for purposes of trading on the Exchange as an ''Electronic Exchange Member'' or ''Market Maker.'' Members are deemed ''members'' under the Exchange Act. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[6] The term ''Market Maker'' or ''MM'' means a Member registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter VI of the Exchange Rules. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[7] The term ''Electronic Exchange Member'' or ''EEM'' means the holder of a Trading Permit who is a Member representing as agent Public Customer Orders or Non-Customer Orders on the Exchange and those non-Market Maker Members conducting proprietary trading. Electronic Exchange Members are deemed ''members'' under the Exchange Act. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[8] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[9] *See* Securities Exchange Act Release No. 98733 (October 12, 2023), 88 FR 71907 (October 18, 2023) (SR–PEARL–2023–52).

[10] *See* Cboe BZX Exchange, Inc. (''BZX'') Options Fee Schedule, Options Logical Port Fees, Purge Ports ($750 per purge port per month); Cboe EDGX Exchange, Inc. (''EDGX'') Options Fee Schedule, Options Logical Port Fees, Purge Ports ($750 per purge port per month); Cboe Exchange, Inc. (''Cboe'') Fee Schedule ($850 per purge port per month). *See also* Nasdaq GEMX, Options 7, Pricing Schedule, Section 6.C.(3). Nasdaq GEMX, LLC (''Nasdaq GEMX'') assesses its members $1,250 per SQF Purge Port per month, subject to a monthly cap of $17,500 for SQF Purge Ports and SQF Ports, applicable to market makers. *See also* Securities Exchange Act Release No. 97825 (June 30, 2023), 88 FR 43405 (July 7, 2023) (SR–Phlx–2023–28).

[11] A Matching Engine is a part of the Exchange's electronic system that processes options quotes and trades on a symbol-by-symbol basis. Some matching engines will process option classes with multiple root symbols, and other matching engines will be dedicated to one single option root symbol (for example, options on SPY will be processed by one single matching engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated matching engine. A particular root symbol may not be assigned to multiple matching engines.

[12] *See supra* note 10.

[13] The Exchange notes that each Matching Engine corresponds to a specified group of symbols. Certain Market Makers choose to only quote in certain symbols while other Market Makers choose to quote the entire market.

that the proposed fee provides Members with flexibility to control their Purge Port costs based on the number of Matching Engines each Marker Maker elects to connect to based on each Market Maker's business needs.

* * * * *

A logical port represents a port established by the Exchange within the Exchange's System for trading and billing purposes. Each logical port grants a Member the ability to accomplish a specific function, such as order entry, order cancellation, access to execution reports, and other administrative information.

Purge Ports are designed to assist Members [14] in the management of, and risk control over, their orders, particularly if the firm is dealing with a large number of securities. For example, if a Market Maker detects market indications that may influence the execution potential of their orders, the Market Maker may use Purge Ports to reduce uncertainty and to manage risk by purging all orders in a number of securities. This allows Members to seamlessly avoid unintended executions, while continuing to evaluate the market, their positions, and their risk levels. Purge Ports are used by Members that conduct business activity that exposes them to a large amount of risk across a number of securities. Purge Ports enable Members to cancel all open orders, or a subset of open orders through a single cancel message. The Exchange notes that Purge Ports increase efficiency of already existing functionality enabling the cancellation of orders.

The Exchange operates highly performant systems with significant throughput and determinism which allows participants to enter, update and cancel orders at high rates. Members may currently cancel individual orders through the existing functionality, such as through the use of a mass cancel message by which a Market Maker may request that the Exchange remove all or a subset of its quotations and block all or a subset of its new inbound quotations.[15] Other than Purge Ports being a dedicated line for cancelling quotations, Purge Ports operate in the same manner as a mass cancel message being sent over a different type of port. For example, like Purge Ports, mass cancellations sent over a logical port may be done at either the firm or MPID level. As a result, Members can currently cancel orders in rapid succession across their existing logical ports [16] or through a single cancel message, all open orders or a subset of open orders.

Similarly, Members may also use cancel-on-disconnect control when they experience a disruption in connection to the Exchange to automatically cancel all orders, as configured or instructed by the Member or Market Maker.[17] In addition, the Exchange already provides similar ability to mass cancel orders through the Exchange's risk controls, which are offered at no charge and enables Members to establish pre-determined levels of risk exposure, and can be used to cancel all open orders.[18] Accordingly, the Exchange believes that the Purge Ports provide an efficient option as an alternative to already available services and enhance the Member's ability to manage their risk.

The Exchange believes that market participants benefit from a dedicated purge mechanism for specific Members and to the market as a whole. Members will have the benefit of efficient risk management and purge tools. The market will benefit from potential increased quoting and liquidity as Members may use Purge Ports to manage their risk more robustly. Only Members that request Purge Ports would be subject to the proposed fees, and other Members can continue to operate in exactly the same manner as they do today without dedicated Purge Ports, but with the additional purging capabilities described above.

Implementation Date

The proposed fees are immediately effective.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[19] in general, and furthers the objectives of section 6(b)(5) of the Act,[20] in particular, in that it is not designed to permit unfair discrimination among customers, brokers, or dealers. The Exchange also believes that its proposed fee is consistent with section 6(b)(4) of the Act [21] because it represents an equitable allocation of reasonable dues, fees and other charges among market participants.

The Exchange supports the proposed fee change with the below justification because a similar justification was used in a recent 2023 proposal filed with the Commission by another national securities exchange, Phlx, to adopt fees for purge ports, which the Commission deemed acceptable by not suspending that filing during the applicable 60-day review period.[22] In fact, the same justification Phlx utilized was also used in similar recent proposals to adopt fees for purge ports by two of Phlx's affiliated exchanges.[23] Therefore, the Exchange utilized the below justification based on this recent Commission precedent from approximately one month ago.

The Exchange believes that the proposed rule change would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market because offering Members optional service and flexible fee structures which promotes choice, flexibility, efficiency, and competition. The Exchange believes Purge Ports enhance Members' ability to manage orders, which would, in turn, improve their risk controls to the benefit of all market participants. The Exchange believes that Purge Ports foster cooperation and coordination with persons engaged in facilitating transactions in securities because designating Purge Ports for purge messages may encourage better use of such ports. This may, concurrent with the ports that carry orders and other information necessary for market making activities, enable more efficient, as well as fair and reasonable, use of Members' resources. Similar connectivity and functionality is offered by options exchanges, including the Exchange's own affiliated options exchanges, and other equities exchanges.[24] The Exchange believes that

[14] Members seeking to become registered as a Market Maker must comply with the applicable requirements of Chapter VI of the Exchange's Rules.

[15] *See* Exchange Rule 519C(a) and (b).

[16] Current Exchange port functionality supports cancelation rates that exceed one thousand messages per second and the Exchange's research indicates that certain market participants rely on such functionality and at times utilize such cancelation rates.

[17] *See* Exchange Rule 519C(c).

[18] *See* Exchange Rule 532.

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

[21] 15 U.S.C. 78f(b)(4).

[22] *See supra* note 3.

[23] *See* Securities Exchange Act Release Nos. 98770 (October 18, 2023), 88 FR 73065 (October 24, 2023) (SR–BX–2023–026); *and* 98768 (October 18, 2023), 88 FR 73056 (October 24, 2023) (SR–NASDAQ–2023–041). While the Exchange included a cost-based justification in a related filing to amend fees for connectivity, it does not believe a cost-based justification is require here because Purge Ports are optional functionality and no cost-based justification was provided by Phlx or any of its affiliates in their same filings to adopt fees for purge ports. Nor does the Commission Staff's own fee guidance include such a requirement. *See* Staff Guidance on SRO Rule Filings Relating to Fees (May 21, 2019), *available at https://www.sec.gov/tm/staff-guidance-sro-rule-filings-fees*.

[24] *See supra* notes 4 and 10. *See also* Securities Exchange Act Release No. 77613 (April 13, 2016), 81 FR 23023 (April 19, 2016). *See* also Securities

proper risk management, including the ability to efficiently cancel multiple orders quickly when necessary, is similarly valuable to firms that trade in the equities market, including Members that have heightened quoting obligations that are not applicable to other market participants.

Purge Ports do not relieve Members of their quoting obligations or firm quote obligations under Regulation NMS Rule 602.[25] Specifically, any interest that is executable against a Member's or Market Maker's orders that is received by the Exchange prior to the time of the removal of orders request will automatically execute. Members that purge their orders will not be relieved of the obligation to provide continuous two-sided orders on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against a Market Maker for failing to meet their continuous quoting obligation each trading day.[26]

The Exchange is not the only exchange to offer this functionality and to charge associated fees.[27] The Exchange believes the proposed fee for Purge Ports is reasonable because it is lower than the fees currently charged by other exchanges for similar port functionality. For example, BZX and EDGX charge a fee of $750 per purge port per month, Cboe charges $850 per purge port per month, Nasdaq GEMX assesses its members $1,250 per SQF Purge Port per month, subject to a monthly cap of $17,500 for SQF Purge Ports and SQF Ports.[28]

The Exchange believes it is reasonable to charge $600 per month for Purge Ports as proposed because such ports were specially developed to allow Members to send a single message to cancel multiple orders, thereby assisting firms in effectively managing risk. The Exchange also believes that a Member that chooses to utilize Purge Ports may, in the future, reduce their need for additional ports by consolidating cancel messages to their dedicated Purge Port and thus freeing up some capacity of the existing logical ports and, therefore, allowing for increased message traffic without paying for additional logical ports. Purge Ports provide the ability to cancel multiple orders with a single message over a dedicated port, and, therefore, may create efficiencies for firms and provide a more efficient solution for them based on their risk management needs. In addition, Purge Port requests may cancel orders submitted over numerous ports and contain added functionality to purge only a subset of these orders. Effective risk management is important both for individual market participants that choose to utilize risk features provided by the Exchange, as well as for the market in general. As a result, the Exchange believes that it is appropriate to charge fees for such functionality as doing so aids in the maintenance of a fair and orderly market.

The Exchange also believes that its ability to set fees for Purge Ports is subject to significant substitution-based forces because Members are able to rely on currently available services both free and those they receive when using existing trading protocols. If the value of the efficiency introduced through the Purge Port functionality is not worth the proposed fees, Members will simply continue to rely on the existing functionality and not pay for Purge Ports. In that regard, Members may currently cancel individual orders through the existing functionality, such as through the use of a mass cancel message by which a Market Maker may request that the Exchange remove all or a subset of its quotations and block all or a subset of its new inbound quotations. Already Members can also cancel orders individually and by utilizing Exchange protocols that allow them to develop proprietary systems that can send cancel messages at a high rate.[29] In addition, the Exchange already provides similar ability to mass cancel orders through the Exchange's risk controls, which are offered at no charge that enables Members to establish pre-determined levels of risk exposure, and can be used to cancel all open orders.[30]

Further, like Purge Ports, Members may also cancel all or a subset of its orders in the System, by firm name or by MPID, over their existing ports, or by requesting the Exchange staff to effect such cancellations.[31]

Similarly, Members may use cancel-on-disconnect control when they experience a disruption in their connection to the Exchange and immediately cancel all pending quotes in the Exchange's System.[32] Finally, this existing purging functionality will allow Members to achieve essentially the same outcome in canceling orders as they would by utilizing the Purge Ports. Accordingly, the Exchange believes that the proposed Purge Ports fee is reasonable because it is related to the efficiency of Purge Ports and to other means and services already available which are either free or already a part of a fee assessed to the Members for existing connectivity. Accordingly, because Purge Ports provide additional optional functionality, excessive fees would simply serve to reduce or eliminate demand for this optional product.

The Exchange also believes that offering Purge Ports at the Matching Engine level promotes risk management across the industry, and thereby facilitates investor protection. Some market participants, in particular the larger firms, could and do build similar risk functionality (as described above) in their trading systems that permit the flexible cancellation of orders entered on the Exchange at a high rate. Offering Matching Engine level protections ensures that such functionality is widely available to all firms, including smaller firms that may otherwise not be willing to incur the costs and development work necessary to support their own customized mass cancel functionality.

As noted above, the Exchange is not the only exchange to offer dedicated Purge Ports, and the proposed rate is lower than that charged by other exchanges for similar functionality. The Exchange also believes that moving to a per Matching Engine fee is reasonable due to the Exchange's architecture that provides it the ability to provide two (2) Purge Ports per Matching Engine for a fee that would still be lower than competing exchanges that charge on a per port basis. Generally speaking, restricting the Exchange's ability to charge fees for these services discourages innovation and competition. Specifically in this case, the Exchange's inability to offer similar services to those offered by other exchanges, and charge reasonable and equitable fees for such services, would put the Exchange at a significant competitive disadvantage and, therefore, serve to restrict competition in the market—especially when other exchanges assess comparable fees higher than those proposed by the Exchange.

The Exchange believes that the proposed Purge Port fees are equitable because the proposed Purge Ports are

Exchange Act Release Nos. 79956 (February 3, 2017), 82 FR 10102 (February 9, 2017) (SR–BatsBZX–2017–05); 79957 (February 3, 2017), 82 FR 10070 (February 9, 2017) (SR–BatsEDGX–2017–07); 83201 (May 9, 2018), 83 FR 22546 (May 15, 2018) (SR–C2–2018–006).

[25] *See* Exchange Rule 604. *See also generally* Chapter VI of the Exchange's Rules.

[26] *Id.*

[27] *See supra* notes 4 and 10.

[28] *See supra* note 10.

[29] Current Exchange port functionality supports cancellation rates that exceed one thousand messages per second and the Exchange's research indicates that certain Participants rely on such functionality and at times utilize such cancellation rates.

[30] *See* Exchange Rule 532.

[31] *See* Exchange Rule 519C(a).

[32] *See* Exchange Rule 519C(c).

completely voluntary as they relate solely to optional risk management functionality.

The Exchange also believes that the proposed amendments to its Fee Schedule are not unfairly discriminatory because they will apply uniformly to all Members that choose to use the optional Purge Ports. Purge Ports are completely voluntary and, as they relate solely to optional risk management functionality, no Market Maker is required or under any regulatory obligation to utilize them. All Members that voluntarily select this service option will be charged the same amount for the same services. All Members have the option to select any connectivity option, and there is no differentiation among Members with regard to the fees charged for the services offered by the Exchange.

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 not necessary or appropriate in furtherance of the purposes of the Act. Purge Ports are completely voluntary and are available to all Members on an equal basis at the same cost. While the Exchange believes that Purge Ports provide a valuable service, Members can choose to purchase, or not purchase, these ports based on their own determination of the value and their business needs. No Member is required or under any regulatory obligation to utilize Purge Ports. Accordingly, the Exchange believes that Purge Ports offer appropriate risk management functionality to firms that trade on the Exchange without imposing an unnecessary or inappropriate burden on competition.

Furthermore, the Exchange operates in a highly competitive environment, and its ability to price the Purge Ports is constrained by competition among exchanges that offer similar functionality. As discussed, there are currently a number of similar offers available to market participants for higher fees at other exchanges. Proposing fees that are excessively higher than established fees for similar functionality would simply serve to reduce demand for the Purge Ports, which as discussed, market participants are under no obligation to utilize. It could also cause firms to shift trading to other exchanges that offer similar functionality at a lower cost, adversely impacting the overall trading on the Exchange and reducing market share. In this competitive environment, potential purchasers are free to choose which, if any, similar product to purchase to satisfy their need for risk management. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

The Exchange also does not believe the proposal would cause any unnecessary or inappropriate burden on intermarket competition as other exchanges are free to introduce their own purge port functionality and lower their prices to better compete with the Exchange's offering. The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposal would apply uniformly to any market participant, in that it does not differentiate between Members. The proposal would allow any interested Members to purchase Purge Port functionality based on their business needs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange received one comment letter on the proposal.[33] This comment letter was submitted not only on this proposal, but also the proposals by the Exchange and its affiliates to amend fees for 10Gb ULL connectivity and certain ports. Overall, the Exchange believes that the issues raised by the commenter are not germane to this proposal because they apply primarily to the other fee filings. Also, the commenter's raised concerns with the current environment surrounding exchange non-transaction fee proposals that should be addressed by the Commission through rule making, or Congress, more holistically and not through an individual exchange fee filings. However, the commenter does raise one issue that concerns this proposal whereby it asserts that the Exchange's comparison to fees charged by other exchanges for similar ports is irrelevant and unpersuasive. The core of the issue raised is regarding the cost to connect to one exchange compared to the cost to connect to others. A thorough response to this comment would require the Exchange to obtain competitively sensitive information about other exchange architecture and how their members connect. The Exchange is not privy to this information. Further, the commenter compares the Exchange's proposed rate to other exchanges that offer purge port functionality across all matching engines for a single fee, but fails to provide the same comparison to other exchanges that charge for purge functionality like proposed here. The Exchange does not have insight into the technical architecture of other exchanges so it is difficult to ascertain the number of purge ports a firm would need to connect to another exchange's entire market. Therefore, the Exchange is limited to comparing its proposed fee to other exchanges' purge port fees as listed in their fee schedules.

[33] *See* letter from Thomas M. Merritt, Deputy General Counsel, Virtu Financial, Inc. (''Virtu''), to Vanessa Countryman, Secretary, Commission, dated November 8, 2023.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act,[34] and Rule 19b–4(f)(2)[35] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–PEARL–2023–65 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–PEARL–2023–65. 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

[34] 15 U.S.C. 78s(b)(3)(A)(ii).

[35] 17 CFR 240.19b–4(f)(2).

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–PEARL–2023–65 and should be submitted on or before January 2, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–27161 Filed 12–11–23; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

National Women's Business Council; Notice of Public Meeting

AGENCY: Small Business Administration, National Women's Business Council.

ACTION: Notice of open public meeting.

DATES: The public meeting will be held on Tuesday, January 23, 2024, from 12:00 p.m. to 2:00 p.m. EDT.

ADDRESSES: This meeting is hybrid and will be held via Zoom, a web conferencing platform as well as in-person. The access link will be provided to attendees upon registration. For those attending in-person, the event will take place at the U.S. Small Business Administration Headquarters (409 3rd St. SW, Washington, DC 20416) in Eisenhower Conference Room on the Concourse Level.

FOR FURTHER INFORMATION CONTACT: For more information, please visit the NWBC website at *www.nwbc.gov,* email *info@nwbc.gov* or call Jordan Chapman, Public Affairs Manager, at 202–941–6001.

The meeting is open to the public; however, advance notice of attendance is requested. To RSVP, please visit the NWBC website at *www.nwbc.gov.* The ''Public Meetings'' section will feature a link to register on Eventbrite.

This event will be held over Zoom and in-person, with a link being provided closer to the date of the event for Zoom attendees. During the live event, attendees will be in listen-only mode. For technical assistance, please visit the Zoom Support Page. The meeting record, including a recording and a recap, will be made available on *www.nwbc.gov* under the ''Public Meetings'' section after the meeting has concluded.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, the National Women's Business Council (NWBC) announces its first public meeting of Fiscal Year 2024. The 1988 Women's Business Ownership Act established NWBC to serve as an independent source of advice and policy recommendations to the President, Congress, and the Administrator of the U.S. Small Business Administration (SBA) on issues of importance to women entrepreneurs.

This meeting will allow Council Members to review what was accomplished in 2023 and preview what may be accomplished over the next year. The event will include guest speakers and will allow Council Members to respond to a selection of questions and comments from the public.

Dated: December 7, 2023.

Andrienne Johnson,

Committee Management Officer.

[FR Doc. 2023–27235 Filed 12–11–23; 8:45 am]

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DEPARTMENT OF STATE

[Public Notice: 12286]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''Matisse and the Sea'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition ''Matisse and the Sea'' at the Saint Louis Art Museum, St. Louis, Missouri, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Nicole L. Elkon,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2023–27199 Filed 12–11–23; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2023–0221]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: ENVA 1 (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the

[36] 17 CFR 200.30–3(a)(12).

requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 11, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2023–0221 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Search MARAD–2023–0221 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD–2023–0221, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–461, Washington, DC 20590. Telephone: (202) 366–0903. Email: *patricia.hagerty@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel ENVA 1 is:

—*Intended Commercial Use of Vessel:* Requester intends to use this boat to charter guests on tours of the Biscayne Bay in Miami.
—*Geographic Region Including Base of Operations:* Florida. Base of Operations: Miami, FL.
—*Vessel Length and Type:* 25′ Motorboat.

The complete application is available for review identified in the DOT docket as MARAD 2023–0221 at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *https://www.regulations.gov,* keyword search MARAD–2023–0221 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2023–27186 Filed 12–11–23; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2023–0224]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: LEGACY (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 11, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number

MARAD–2023–0224 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Search MARAD–2023–0224 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD–2023–0224, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–461, Washington, DC 20590. Telephone: (202) 366–0903. Email: *patricia.hagerty@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel Legacy is:

—*Intended Commercial Use of Vessel:* Requester intends to use vessel to take passengers on sportfishing charters off the coast of California.
—*Geographic Region Including Base of Operations:* California, Base of Operations: Los Angeles, CA.
—*Vessel Length and Type:* 42′ Catamaran.

The complete application is available for review identified in the DOT docket as MARAD 2023–0224 at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *https://www.regulations.gov,* keyword search MARAD–2023–0224 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2023–27185 Filed 12–11–23; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2023–0223]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: SAILAWAY (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 11, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2023–0223 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Search MARAD–2023–0223 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location

address is U.S. Department of Transportation, MARAD–2023–0223, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–461, Washington, DC 20590. Telephone: (202) 366–0903. Email: *patricia.hagerty@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel Sailaway is:

—*Intended Commercial Use of Vessel:* Requester intends to use boat for light chartering during the summer months.
—*Geographic Region Including Base of Operations:* Alaska, Hawaii, California, Oregon, Washington. Base of Operations: Seward, AK.
—*Vessel Length and Type:* 45′ Sail

The complete application is available for review identified in the DOT docket as MARAD 2023–0223 at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *https://www.regulations.gov,* keyword search MARAD–2023–0223 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2023–27187 Filed 12–11–23; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2023–0225]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: VALHALLA (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 11, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2023–0225 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Search MARAD–2023–0225 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD–2023–0225, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include

your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–461, Washington, DC 20590. Telephone: (202) 366–0903. Email: *patricia.hagerty@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel Valhalla is:

—*Intended Commercial Use of Vessel:* Requester intends to use boat for light passenger charter.
—*Geographic Region Including Base of Operations:* Georgia. Base of Operations: Lake Lanier, GA.
—*Vessel Length and Type:* 49.10′ Catamaran.

The complete application is available for review identified in the DOT docket as MARAD 2023–0225 at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *https://www.regulations.gov,* keyword search MARAD–2023–0225 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

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(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2023–27184 Filed 12–11–23; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2023–0222]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: LEI LANA (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before January 11, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2023–0222 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Search MARAD–2023–0222 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD–2023–0222, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and

specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–461, Washington, DC 20590. Telephone: (202) 366–0903. Email: *patricia.hagerty@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel LEI LANA is:

—*Intended Commercial Use of Vessel:* Requester intends to offer passenger cruises to watch fireworks.
—*Geographic Region Including Base of Operations:* Hawaii. Base of Operations: Honolulu, HI.
—*Vessel Length and Type:* 54′ Motorboat.

The complete application is available for review identified in the DOT docket as MARAD 2023–0222 at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *https://www.regulations.gov,* keyword search MARAD–2023–0222 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

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(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2023–27183 Filed 12–11–23; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2023–0063]

Agency Information Collection Activities; Notice and Request for Comment; Human Interaction With Driving Automation Systems

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

ACTION: Notice and request for comments on a request for approval of a new collection of information.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) invites public comments about our intention to request approval from the Office of Management and Budget (OMB) for a new information collection. Before a Federal agency can collect certain information from the public, it must receive approval from OMB. Under procedures established by the Paperwork Reduction Act of 1995 (the PRA), before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections. The proposed collection of information described below supports research addressing safety-related aspects of drivers' interactions with driving automation systems.

DATES: Comments must be submitted before *February 12, 2024.*

ADDRESSES: You may submit comments identified by the docket number NHTSA–2023–0063 through any of the following methods:

- *Electronic submissions:* Go to the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail or Hand Delivery:* Docket Management, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays. To be sure someone is there to help you, please call (202) 366–9322 before coming.

Instructions: All submissions must include the agency name and docket number for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://www.dot.gov/privacy.html.*

Docket: For access to the docket to read comments received, go to *http://www.regulations.gov,* or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: For additional information, contact: Eric Traube, Office of Vehicle Safety Research, Human Factors/Engineering Integration Division, NSR–310, West Building, W46–424, 1200 New Jersey Ave. SE, Washington, DC 20590; *eric.traube@dot.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) how to enhance the quality, utility, and clarity of the information to be collected; and (d) how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information for which the agency is seeking approval from OMB.

Title: Human Interaction with Driving Automation Systems.

OMB Control Number: New.

Form Numbers: There are multiple forms for this collection including: Eligibility Questionnaire, NHTSA Form 1742; Informed Consent Study 1, NHTSA Form 1743; Informed Consent Study 2, NHTSA Form 1744; Informed Consent Study 3, NHTSA Form 1745; Pre-Drive Questionnaire, NHTSA Form 1746; Wellness Questionnaire, NHTSA Form 1747; In-Drive Questionnaire, NHTSA Form 1748; Post-Drive Questionnaire, NHTSA Form 1749.

Type of Request: New information collection.

Type of Review Requested: Regular.

Requested Expiration Date of Approval: Three years from date of approval.

Summary of the Collection of Information

The National Highway Traffic Safety Administration (NHTSA) has proposed to perform research involving the collection of information from the public as part of a multi-year effort to learn about how humans interact with driving automation systems (DAS). This research will support NHTSA in understanding the potential safety challenges associated with human-DAS interactions, particularly in the context of mixed traffic interactions where some vehicles have DAS and others do not. Within mixed traffic environments, vehicles may also have DAS that perform more or less of the driving task (*i.e.,* different levels of automation) and come with their own sets of expectations and limitations.

The research will involve human subjects testing using a driving simulator. The goal is to understand how drivers interact with driving automation systems, specifically in situations where the automation behaves unlike a human driver. The project will measure interactions between humans and driving automation systems by (1) examining driving performance measures (such as takeover time and reaction time), (2) measuring understanding of the automation through questionnaires, (3) measuring trust in automation using questionnaires, and (4) measuring risk taking through questionnaires and a simple behavioral task on a computer. This research will add to NHTSA's state of knowledge and is not immediately intended to inform regulations or policy.

The research will be conducted in three parts, referred to as Study 1, Study 2, and Study 3. All study procedures will be approved by the University of Iowa Institutional Review Board (IRB). Data collection will begin upon receipt of PRA clearance and will involve human-subjects data collection using the driving simulators at the University of Iowa Driving Safety Research Institute (DSRI).

The data collections will be performed once to obtain the target number of valid test participants. Study participants will be members of the general public and participation will be voluntary with monetary compensation provided. Participants will include licensed drivers aged 18 to 65 who are healthy and able to drive without assistive devices. Participants will be recruited using the DSRI registry and through email blasts to University of Iowa community.

The objective of the first study is to understand how humans interact with DAS in mixed traffic environments, driving environments where some vehicles have automated capabilities, and some vehicles are driven manually. In the first study, participants will participate in pairs with each participant driving a separate driving simulator but interacting in the same driving environment. Participants will experience one of two driving automation systems. Both members of the participant pair will provide informed consent, a pre-drive questionnaire, a training presentation, a familiarization drive, wellness questionnaires to screen for simulator sickness, a study drive, in-drive ratings of trust, a post-drive questionnaire, and a risk-propensity assessment. During the simulator drives, one member of the pair will perform a continuous drive along a specified route. The other member of the pair will complete three short drives where they interact with the other participant at specific points throughout the drive. The simulator will collect vehicle data (*e.g.,* brake inputs, steering wheel angle) and data about the surrounding environment (*e.g.,* distance to surrounding vehicles and lane markings). After the drives, participants will complete a questionnaire to assess their understanding of the DAS and their trust in and acceptance of the DAS. Data will be analyzed to understand how human drivers interact with DAS in mixed traffic situations and to understand how humans understand and perceive automation in different situations.

Study 2 will focus on understanding the impact of different levels of automated system capability, defined by how well the automation can perform different driving behaviors. In the second study, participants will complete a drive in a driving simulator with a driving automation system. The study drive will contain situations to which the DAS must respond.

Participants will be randomly assigned to one of three systems with different capabilities, defined by how well the automation can navigate the set of test situations. The simulator will collect vehicle data (*e.g.,* brake inputs, steering wheel angle) and data about the surrounding environment (*e.g.,* distance to surrounding vehicles and lane markings). After the drives, participants will complete a questionnaire to assess their understanding of the DAS and their trust in and acceptance of the DAS as well as a risk-propensity assessment. Data will be analyzed to understand how human drivers interact with DAS in mixed traffic situations and to understand how humans understand and perceive automation in different situations.

Study 3 will be similar to Study 2 but will focus on how the decision-making behaviors of the automated driving systems impact user experience and driving performance. In the third study, participants will complete a drive in a driving simulator with a driving automation system. The study drive will contain situations to which the DAS must respond. Participants will be randomly assigned to one of three systems with different capabilities, defined by how well the automation can navigate the set of test situations. Procedures for the three studies are identical apart from the study drive experienced.

These three studies will involve information collection through participant screening questions, a pre-drive questionnaire, a wellness questionnaire to measure simulator sickness symptoms, assessment of driving performance in a driving simulator with a situational trust questionnaire administered at points during the study drives, a post-drive questionnaire, and a behavioral assessment of risk-taking propensity called the balloon analogue risk task (BART).

The National Highway Traffic Safety Administration's (NHTSA) mission is to save lives, prevent injuries, and reduce economic costs associated with motor vehicle crashes. As new vehicle technologies are developed, it is prudent to ensure that they do not create any unintended decrease in safety. The safe deployment of driving automation systems, particularly when deployed in mixed traffic where some vehicles are controlled by automation and some are controlled manually, requires an understanding of how humans respond to and perceive different automation behavior. This work seeks to examine how drivers interact with driving automation systems in a wide sample of contexts and different levels of automation.

The collection of information will consist of:

1. *Eligibility Questionnaire (NHTSA Form 1742).*
2. *Informed Consent Study 1 (NHTSA Form 1743).*
3. *Informed Consent Study 2 (NHTSA Form 1744).*
4. *Informed Consent Study 3 (NHTSA Form 1745).*
5. *Pre-Drive Questionnaire (NHTSA Form 1746).*
6. *Wellness Questionnaire (NHTSA Form 1747).*
7. Driving Behavior Assessment (Pre-Drive PowerPoint Training, Familiarization Drive, Study Drive with *In-Drive Questionnaire (NHTSA Form 1748*).
8. *Post-Drive Questionnaire (NHTSA Form 1749).*
9. Balloon Analogue Risk Task (BART).

The information to be collected will be used for the following purposes:

1. *Eligibility Questionnaire (NHTSA Form 1742)*—Necessary for determining individuals' suitability for study participation based on driving experience and history, general health, and ability to safely drive in the simulator without health concerns. The Eligibility Questionnaire will solely be used to determine individuals' suitability for study participation and will not be analyzed in any way. These criteria will remain the same across studies.

2. *Informed Consent Study 1 (NHTSA Form 1743)*—Necessary for obtaining informed written consent from the participant to participate in the study. The form describes all study procedures, data storage and use, and potential risks from the study.

3. *Informed Consent Study 2 (NHTSA Form 1744)*—Necessary for obtaining informed written consent from the participant to participate in the study. The form describes all study procedures, data storage and use, and potential risks from the study.

4. *Informed Consent Study 3 (NHTSA Form 1745)*—Necessary for obtaining informed written consent from the participant to participate in the study. The form describes all study procedures, data storage and use, and potential risks from the study.

5. *Pre-Drive Questionnaire (NHTSA Form 1746)*—Necessary for collecting data used to measure participants' understanding (*i.e.,* mental model) of DAS and their pre-drive trust in the DAS. Collecting these data before and after the drives will let us measure how exposure to the DAS impacts understanding and trust. Demographic information (*e.g.,* age, sex, gender, race, ethnicity) will also be collected. This pre-drive questionnaire will remain the same across all three studies.

6. *Wellness Questionnaire (NHTSA Form 1747)*—Necessary for evaluating simulator sickness symptoms to determine individuals' ability to complete the study drive in the driving simulator. This questionnaire will be administered pre-drive (to obtain baseline ratings), after the familiarization drive, and after the study drive. This wellness questionnaire will remain the same across all three studies.

7. Driving Behavior Assessment (Study Drive) with *In-Drive Questionnaire (NHTSA Form 1748)*—Before the study drive, participants will complete training via a PowerPoint presentation on a computer in a private study room. The presentation will introduce the simulator, the familiarization and study drive procedures, the DAS, and the non-driving email task. The familiarization drive is necessary to acclimate the participant to the driving simulator and perform a real-time determination for simulator sickness while training the participant on how to use the driving automation system. The study drive is necessary for gathering driving performance information for the purpose of assessing how drivers interact with automated systems and the impact of these interactions on safety. The in-drive questionnaire is necessary for understanding drivers' trust in the DAS at various points during the study drive. In Study 1, this information is collected after the events where the pair of research participants interact with one another. In Studies 2 & 3, this information is collected after the four events where the behavior of the automation varies across the different conditions. The information will be used to measure trust in the DAS following specific events. These questions will remain the same across all three studies.

8. *Post-Drive Questionnaire (NHTSA Form 1749)*—Necessary for collecting data used to measure participants' understanding (*i.e.,* mental model) of DAS and their post-drive trust in the DAS, as well as general risk-taking behavior while driving. This post-drive questionnaire will remain the same across all three studies.

9. Balloon Analogue Risk Task (BART)—Necessary for measuring objective risk-taking propensity. For this computerized task, participants are presented with 20 different balloons (20 trials) and told that ''the actual number of pumps for any particular balloon will

vary.'' Participants are instructed to attempt to earn as many points as possible. At the beginning of each trial, the participant decides how many pumps they thought the balloon would hold and input this number. Each balloon inflates for 3 seconds and then either pops or stays intact depending on whether the participant's wager was above or below the predetermined explosion point for that balloon. If the balloon is pumped past its explosion point, it will pop, and the participant earns no points for that balloon. If the balloon is not pumped past the explosion point, the participant keeps the number of pumps as points. After each outcome, a new deflated balloon appears on the screen and points earned will be added to the total. Each balloon could earn a maximum of 128 points with an explosion point equally likely to occur on any given pump participant to the constraint that within each sequence of 10 balloons the average explosion point was on pump 64. The task will remain the same across the three studies and is a standardized online tool.

Affected Public

Individuals aged 18+ from Eastern Iowa and the surrounding areas who have volunteered to take part in driving studies will be contacted for participation. They will be randomized evenly by sex, though some imbalance will be permitted to be inclusive of individuals who do not identify on the gender spectrum or as a result of differences in how sex may be identified on drivers' licenses across States. Efforts will be made to enroll a diverse age sample that broadly represents the age of the driving population and includes those at greater risk of crashing (*e.g.,* less than 25 years of age and greater than 65 years of age). Businesses are ineligible for the sample and will not be contacted.

Estimated Number of Respondents

To obtain the target number of 224 valid test participants. Assuming typical data loss rates for simulator testing with human participants, it is anticipated that 300 participants will need to be run in order to obtain 224 valid participant datasets. This will ensure sufficient statistical power in each of the three studies to detect differences between conditions.

Information for the three studies will be obtained in an incremental fashion to permit the determination of which individuals have the necessary characteristics for study participation. All interested candidates will complete the Eligibility Questionnaire. From the subset of individuals found to meet the criteria in the Eligibility Questionnaire, a subset will be chosen with the goal of achieving a sample providing a balance of sex to be scheduled for study participation. Some imbalance will be allowed to be inclusive of all identities since not all individuals will identify on the gender spectrum. Participants will complete the Pre-Drive Questionnaire before a familiarization drive and the Wellness Questionnaire immediately after the drive to screen for simulator sickness. Participants who pass the screening will complete the remainder of the study procedures, including the In-Drive Questionnaire, the Post-Drive Questionnaire, and the Balloon Analogue Risk Task.

Data collection will involve approximately 700 respondents for the Eligibility Questionnaire (with approximately 400 potentially meeting eligibility criteria) and 300 respondents for the Pre-Drive Questionnaire, Wellness Questionnaire, the Driving Behavior Assessment, the Post-Drive Questionnaire, and the Balloon Analogue Risk Task. A summary of the estimated numbers of individuals that will complete the noted question sets is provided in the following table.

ESTIMATED NUMBER OF TOTAL RESPONDENTS

Information collection	NHTSA form No.	Participants (*i.e.,* respondents)
Eligibility Questionnaire	1742	700.
Informed Consent Study 1	1743	180.
Informed Consent Study 2	1744	60.
Informed Consent Study 3	1745	60.
Pre-Drive Questionnaire	1746	300 (180 Study 1, 60 Study 2, 60 Study 3).
Wellness Questionnaire	1747	300 (180 Study 1, 60 Study 2, 60 Study 3).
Driving Behavior Assessment (Pre-Drive PowerPoint Training, Familiarization Drive, Study Drive with In-Drive Questionnaire).	1748	300 (180 Study 1, 60 Study 2, 60 Study 3).
Post-Drive Questionnaire	1749	300 (180 Study 1, 60 Study 2, 60 Study 3).
Balloon Analogue Risk Task	.....	300 (180 Study 1, 60 Study 2, 60 Study 3).

Frequency: One-time collection.

Estimated Total Annual Burden Hours: The total estimated burden for the study is 903.3 hours. Averaging that over three years of the collection approval is 301.1 hours.

Eligibility Questionnaire (NHTSA Form 1742) is estimated to take 11 minutes (averaging those who complete the questionnaire and those who do not complete the questionnaire). Informed Consent Study 1 (NHTSA Form 1743) is estimated to take 20 minutes. Informed Consent Study 2 (NHTSA Form 1744) is estimated to take 20 minutes. Informed Consent Study 3 (NHTSA Form 1745) is estimated to take 20 minutes. Pre-Drive Questionnaire (NHTSA Form 1746) is estimated to take 15 minutes. Wellness Questionnaire (NHTSA Form 1747) is estimated to take 5 minutes and taken three times. Driving Behavior Assessment (Pre-Drive PowerPoint Training, Familiarization Drive, Study Drive with In-Drive Questionnaire (NHTSA Form 1748) is estimated to take 80 minutes. Post-Drive Questionnaire (NHTSA Form 1749) is estimated to take 20 minutes. Balloon Analogue Risk Task (BART) is estimated to take 5 minutes.

The estimated annual time and cost burdens across all three study data collections are summarized in the table below. To calculate the opportunity cost associated with the forms and other relevant activities necessary for this collection of new information, NHTSA looked at average hourly earnings for employees on private nonfarm payrolls. NHTSA estimated the total opportunity costs associated with these burden hours by looking at the average wage for total private employees on private nonfarm payrolls. The Bureau of Labor Statistics (BLS) estimates that the average hourly wage for this group is $33.82.

ESTIMATED TIME PER RESPONSE AND TOTAL TIME

Information collection component	Respondents	Time per response (min)	Total burden time (hours)	Total opportunity cost (dollars)
Eligibility questionnaire	700	11	128.3	4,340.00
Informed Consent Document (All Studies)	300	20	100	3,382.00
Pre-Drive Questionnaire	300	15	75	2,536.50
Wellness Questionnaire	300	5 × 3 responses	75	2,536.50
Driving Behavior Assessment (Pre-Drive PowerPoint Training, Familiarization Drive, Study Drive with In-Drive Questionnaire).	300	80	400	13,528.00
Post-Drive Questionnaire	300	20	100	3,382.00
Balloon Analogue Risk Task	300	5	25	846.00
Total			903.3	30,551.00

Estimated Total Annual Burden Cost: The respondents will not incur any reporting or recordkeeping cost from the information collection. Respondents will incur a one-time cost for local travel to and from DSRI, which is estimated not to exceed approximately $39.30 (based on the standard mileage rate for business-related driving in 2023 and a round trip distance of 60 miles). These transportation costs are offset by participant compensation.

Public Comments Invited: You are asked to comment on any aspects of this information collection, including (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; 49 CFR 1.49; and DOT Order 1351.29A.

Cem Hatipoglu,

Associate Administrator, Vehicle Safety Research.

[FR Doc. 2023–27197 Filed 12–11–23; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2023–0143]

Information Collection Activities; Requests for Comments

AGENCY: Office of the Secretary (OST), DOT.

ACTION: Notice and request for public comment and submission to OMB for clearance of renewed approval of information collection.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below will be forwarded to the Office of Management and Budget (OMB) for review and comments. The ICR describes the nature of the information collection and its expected burden. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on September 29, 2023. No public comments were received. The purpose of this Notice is to allow 30 days for public comment.

DATES: Comments to this notice must be received by January 11, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. 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 identification information, will be available for public view.

FOR FURTHER INFORMATION CONTACT: Mike Huntley, Office of Drug and Alcohol Policy and Compliance, Office of the Secretary, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590; 202–366–3784 (voice), 202–366–3897 (fax), or *ODAPCWebmail@dot.gov* (email).

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2105–0529.

Title: Procedures for Transportation Workplace Drug and Alcohol Testing Programs.

Type of Review: Clearance of a renewal of an information collection.

Form Numbers: DOT F 1385; DOT F 1380.

Respondents: The information will be used by transportation employers, Department representatives, and a variety of service agents.

Abstract: Under the Omnibus Transportation Employee Testing Act of 1991, DOT is required to implement a drug and alcohol testing program in various transportation-related industries. This specific requirement is elaborated in 49 CFR part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs. This request for a renewal of the information collection for the program includes 45 burden items including the U.S. Department of Transportation Alcohol Testing Form (ATF) [DOT F 1380] and the DOT Drug and Alcohol Testing Management Information System (MIS) Data Collection Form [DOT F 1385].

The ATF includes the employee's name, the type of test taken, the date of the test, and the name of the employer. Data on each test conducted, including test results, is necessary to document that the tests were conducted and is used to take action, when required, to ensure safety in the workplace. The MIS form includes employer specific drug and alcohol testing information such as the reason for the test and the cumulative number of test results for the negative, positive, and refusal tests. No employee specific data is collected. The MIS data is used by each of the affected DOT Agencies (*i.e.,* Federal Aviation Administration, Federal Transit Administration, Federal Railroad Administration, Federal Motor Carrier Safety Administration, and the Pipeline and Hazardous Materials Safety

Administration) and the United States Coast Guard when calculating their industry's annual random drug and/or alcohol testing rate.

On May 2, 2023, part 40 was amended to include oral fluid testing as an additional methodology for drug testing that gives employers a choice that will help combat employee cheating on urine drug tests and provide a less intrusive means of achieving the safety goals of the program [88 FR 27596]. As a result of the rule to include oral fluid testing as an additional methodology for drug testing, two new burden items have been added to this collection: (1) Oral Fluid Collector (Qualification and Refresher) Training Documentation [§ 40.35(b) & (e)]; and (2) Oral Fluid Collector Error Correction Training Documentation [§ 40.35(f)]. These new burden items are analogous to the existing burden items for urine collectors and screening test technicians and breath alcohol technicians.

Also as a result of the May 2023 rule to include oral fluid as an additional methodology for drug testing, DOT will request OMB approval for a revision of the MIS Data Collection Form to facilitate the collection of oral fluid testing data from employers. Specifically, in Section III of the form, ''Drug Testing Data,'' DOT will add additional rows under each ''Type of Test'' (*e.g.,* Pre-Employment, Random, Post-Accident, Reasonable Suspicion/Cause, Return-to-Duty, Follow-Up, and Total) for employers to enter the number of urine tests, the number of oral fluid tests, and the number of total tests conducted.

Estimated Total Number of Respondents: 1,426,662.

Estimated Number of Responses: 11,459,756.

Frequency of Response: The information will be collected annually.

Estimated Total Number Burden Hours; 1,469,136.

PRA item	Number of respondents	Number of responses	Burden per response (minutes)	Total burden (hours)	Total salary costs ($) [1]
Exemptions from Regulation Provisions Requests [40.7(a)]	1	1	180	3	$122
Employer Stand-down Waiver Requests [40.21(b)]	0	0	480	0	0
Employee Testing Records from Previous Employers [40.25(a)]	549,029	990,596	8	132,079	5,387,502
Employee Release of Information [40.25(f)]	549,029	990,596	8	132,079	5,387,502
MIS Form Submission [40.26]	19,699	19,699	90	29,549	1,205,304
Urine Collector (Qualification and Refresher) Training Documentation [40.33(b) & (e)]	5,000	5,000	4	333	13,583
Urine Collector Error Correction Training Documentation [40.33(f)]	17,980	17,980	4	1,199	48,907
Oral Fluid Collector (Qualification and Refresher) Training Documentation [40.35(b) & (e)]	5,000	5,000	4	333	13,583
Oral Fluid Collector Error Correction Training Documentation [40.35(f)]	17,980	17,980	4	1,199	48,907
Laboratory Reports to DOT Regarding Unlisted Adulterant [40.87(e)]	0	0	30	0	0
Semi-Annual Laboratory Reports to Employers [40.111(a)]	19	365,983	4	24,399	995,235
Semi-Annual Laboratory Reports to DOT [40.111(d)]	19	456	4	30	1,224
Medical Review Officer (MRO) (Qualifications and Continuing Education) Training Documentation [40.121(c) & (d)]	1,000	1,000	4	67	2,733
MRO Review of Negative Results Documentation [40.127(b)(2)(ii)]	5,000	351,135	4	23,409	954,853
MRO Failure to Contact Donor Documentation [40.131(c)(1)]	5,000	50,787	4	3,386	138,115
MRO Effort to Contact DER Documentation [40.131(c)(2)(iii)]	5,000	57,624	4	3,842	156,715
DER Successful Contact Employee Documentation [40.131(d)]	46,099	46,099	4	3,073	125,348
DER Failure to Contact Employee Documentation [40.131(d)(2)(i)]	11,525	11,525	4	768	31,327
MRO Verification of Positive Result Without Interview Documentation [40.133]	5,000	11,525	4	768	31,327
Adulterant/Substitution Evaluation Physician Statements [40.145(g)(2)(ii)(d)]	0	0	30	0	0
MRO Cancellation of Adulterant/Substitution for Legitimate Reason Reports [40.145(g)(5)]	0	0	30	0	0
Employee Admission of Adulterating/Substituting Specimen MRO Determination [40.159(c)]	40	40	4	3	122
Split Specimen Requests by MRO [40.171(c)]	5,000	11,932	4	795	32,428
Split Failure to Reconfirm for Drugs Reports by MRO [40.187(b)]	70	70	4	5	204
Split Failure to Reconfirm for Adulterant/Substitution Reports by MRO [40.187(c)]	8	8	5	1	41
Shy Bladder Physician Statements [40.193(f)]	719	719	5	60	2,447
MRO Statements Regarding Physical Evidence of Drug Use [40.195(b) & (c)]	0	0	0	0	0
Drug Test Correction Statements [40.205 (b)(1) & (2)]	25,000	143,840	8	19,179	782,311
Breath Alcohol Technician (BAT)/Screening Test Technician (STT) (Qualification and Refresher) Training Documentation [40.213(b)(c)&(e)]	2,000	2,000	4	133	5,425
BAT/STT Error Correction Training Documentation [40.213(f)]	401	401	4	27	1,101
Complete DOT Alcohol Testing Forms [40.225(a)]	10,000	8,025,159	8	1,070,021	43,646,157
Evidential Breath Testing Device Quality Assurance/Calibration Records [40.233(c)(4)]	10,000	10,000	4	667	27,166
Shy Lung Physician Statements [40.265(c)(2)]	401	401	4	27	1,101
Alcohol Test Correction Statements [40.271(b)(1)&(2)]	803	803	4	54	2,203
Substance Abuse Professional (SAP) (Qualification and Continuing Education) Training Documentation [40.281(c)&(d)]	3,334	3,334	4	222	9,055
Employer SAP Lists to Employees [40.287]	116,467	116,467	4	7,764	316,694
SAP Reports to Employers [40.311(c), (d) & (e)]	10,000	201,258	4	13,417	547,279
Correction Notices to Service Agents [40.373(a)]	25	25	60	25	1,020
Notice of Proposed Exclusion (NOPE) to Service Agents [40.375(a)]	5	5	600	50	2,040
Service Agent Requests to Contest Public Interest Exclusions (PIE) [40.379(b)]	2	2	60	2	82
Service Agent Information to Argue PIE [40.379(b)(2)]	2	2	240	8	326
Service Agent Information to Contest PIE [40.381(a) & (b)]	2	2	240	8	326
Notices of PIE to Service Agents [40.399]	1	1	60	1	41
Notices of PIE to Employer and Public [40.401 (b) & (d)]	1	1	60	1	41
Service Agent PIE Notices to Employers [40.403 (a)]	1	300	30	150	6,119
Total New	1,426,662	11,459,756	2,328	1,469,136	59,926,016

[1] All salary costs are based upon the Department of Labor's bureau of Labor Statistics average employee compensation hourly cost in 2023.

Public Comments Invited: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the Department's estimate of the burden of the proposed information collection; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1:48)

Issued in Washington, DC, on December 5, 2023.

Authority and Issuance.

Bohdan S. Baczara,

Deputy Director, DOT, Office of Drug and Alcohol Policy and Compliance.

[FR Doc. 2023–27001 Filed 12–11–23; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Bradley T. Smith, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Action(s)

On December 5, 2023, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons and entities are blocked under the relevant sanctions authorities listed below.

BILLING CODE 4810–AL–P

Individuals:

1. SHAUTSOU, Dzmitry Yauhenievich (Cyrillic: ШАЎЦОЎ, Дзмітрый Яўгеньевіч) (a.k.a. SHEVTSOV, Dmitriy Evgenievich (Cyrillic: ШЕВЦОВ, Дмитрий Евгеньевич)), Minsk, Belarus; DOB 03 Nov 1973; nationality Belarus; Gender Male; National ID No. 3031173H001PB8 (Belarus); Secretary General (individual) [RUSSIA-EO14024].

   Designated pursuant to section 1(a)(vi)(B) of Executive Order 14024 of April 19, 2021, "Blocking Property With Respect To Specified Harmful Foreign Activities of the Government of the Russian Federation," 86 FR 20249, 3 CFR, 2021 Comp., p. 542 (E.O. 14024) for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, Maria Lvova-Belova, a person whose property and interests in property are blocked pursuant to E.O. 14024.

2. PETROVICH, Viktor Evgenievich (Cyrillic: ПЕТРОВИЧ, Виктор Евгеньевич) (a.k.a. PIATROVICH, Viktar Yauhenyevich (Cyrillic: ПЯТРОВІЧ, Віктар Яўгеньевіч)), Maxim Tank Str. 69, Minsk, Belarus; DOB 05 Oct 1964; nationality Belarus; Gender Male; National ID No. 3051064A020PB3 (Belarus) (individual) [BELARUS-EO14038].

   Designated pursuant to section 1(a)(iv) of Executive Order 14038 of August 9, 2021, "Blocking Property of Additional Persons Contributing to the Situation in Belarus," 86 FR 43905, 3 CFR, 2021 Comp., p. 626 (E.O. 14038) for operating or having operated in the tobacco products sector of the Belarus economy.

3. TOPUZIDIS, Pavel Georgievich (Cyrillic: ТОПУЗИДИС, Павел Георгиевич) (a.k.a. TOPUZYDYS, Pavlo Heorhiyovych (Cyrillic: ТОПУЗИДИС, Павло

Георгійович)), Belarus; DOB 12 Sep 1956; nationality Belarus; citizen Belarus; Gender Male (individual) [BELARUS-EO14038].

Designated pursuant to section 1(a)(iv) of E.O. 14038 for operating or having operated in the tobacco products sector of the Belarus economy.

4. SHAKUTSIN, Aliaksandr Vasilevich (Cyrillic: ШАКУЦІН, Аляксандр Васільевіч) (a.k.a. SHACKUTIN, Alexander; a.k.a. SHAKUTIN, Aleksandr Vasilyevich (Cyrillic: ШАКУТИН, Александр Васильевич); a.k.a. SHAKUTIN, Alexander Vasileyevich), P. Brovki Str. 8, Minsk 220013, Belarus; DOB 12 Jan 1959; POB Bolshoe Babino, Orsha Rayon, Vitebsk Oblast, Belarus; nationality Belarus; Gender Male (individual) [BELARUS-EO14038].

   Designated pursuant to section 1(a)(iv) of E.O. 14038 for operating or having operated in the construction sector of the Belarus economy.

5. GAICHUK, Nikolai Nikolaevich (Cyrillic: ГАЙЧУК, Николай Николаевич) (a.k.a. GAICHUK, Nikolay; a.k.a. HAICHUK, Mikalai Mikalaevich (Cyrillic: ГАЙЧУК, Мікалай Мікалаевіч)), Nezalezhnosti vulica, 16, Viliejka, Minsk Oblasti, Belarus; DOB 31 May 1973; nationality Belarus; Gender Male; National ID No. 3310573B014PB8 (Belarus) (individual) [BELARUS-EO14038].

   Designated pursuant to section 1(a)(i)(B) of E.O. 14038 for being or having been a leader, official, senior executive officer, or member of the board of directors of JSC ZENIT BELOMO, an entity whose property and interests in property are blocked pursuant to E.O. 14038, and section 1(a)(iv) of E.O. 14038 for operating or having operated in the defense and related materiel sector of the Belarus economy.

6. MOROZ, Alexander Ivanovich (Cyrillic: МОРОЗ, Александр Иванович) (a.k.a. MAROZ, Aliaksandr Ivanavich (Cyrillic: МАРОЗ, Аляксандр Іванавіч)), Niomanskaya vulica, 61, ap. 10, Minsk, Belarus; DOB 15 Jun 1975; nationality Belarus; Gender Male; National ID No. 3150675A015PB3 (Belarus) (individual) [BELARUS-EO14038].

   Designated pursuant to section 1(a)(i)(B) of E.O. 14038 for being or having been a leader, official, senior executive officer, or member of the board of directors of JSC MINSK MECHANICAL PLANT NAMED AFTER S.I. VAVILOV MANAGEMENT COMPANY OF BELOMO HOLDING, an entity whose property and interests in property are blocked pursuant to E.O. 14038, and section 1(a)(iv) of E.O. 14038 for operating or having operated in the defense and related materiel sector of the Belarus economy.

7. SHKADAREVICH, Alexei Petrovich (Cyrillic: ШКАДАРЕВИЧ, Алексей Петрович) (a.k.a. SHKADAREVICH, Alexey; a.k.a. SHKADAREVICH, Aliaksei Piatrovich (Cyrillic: ШКАДАРЭВІЧ, Аляксей Пятровіч)), Parnikovaja vulica, 11, ap. 12, Minsk, Belarus; DOB 27 Oct 1947; nationality Belarus; Gender Male; National ID No. 3271047A006PB4 (Belarus) (individual) [BELARUS-EO14038].

Designated pursuant to section 1(a)(i)(B) of E.O. 14038 for being or having been a leader, official, senior executive officer, or member of the board of directors of SCIENTIFIC TECHNICAL CENTER LEMT BELOMO, an entity whose property and interests in property are blocked pursuant to E.O. 14038, and section 1(a)(iv) of E.O. 14038 for operating or having operated in the defense and related materiel sector of the Belarus economy.

8. BABARIKIN, Vadim Aleksandrovich (Cyrillic: БАБАРИКИН, Вадим Александрович) (a.k.a. BABARYKIN, Vadzim Aliaksandravich (Cyrillic: БАБАРЫКІН, Вадзім Аляксандравіч)), Sergey Esenin St. 36, Apt. 76, Minsk, Belarus (Cyrillic: Ул. Сергея Есенина, д. 36, кв. 76, Г. Минск, Belarus); DOB 07 Aug 1980; nationality Belarus; citizen Belarus; National ID No. 3070880M020PB2 (Belarus) (individual) [BELARUS-EO14038].

Designated pursuant to section 1(a)(iii) of E.O. 14038 for being or having been a leader or official of the Government of Belarus .

Entities:

1. OPEN JOINT STOCK COMPANY ALEVKURP (a.k.a. JSC ALEVKURP; a.k.a. OJSC ALEVKURP; a.k.a. OTKRYTOE AKTSIONERNOE OBSHCHESTVO ALEVKURP (Cyrillic: ОТКРЫТОЕ АКЦИОНЕРНОЕ ОБЩЕСТВО АЛЕВКУРП; Cyrillic: ОАО АЛЕВКУРП)), Korolev Stan, st. Moskovskaya, Borovlyansky, Minsk, Minsk Region 223027, Belarus; Organization Established Date 24 Sep 1996; Target Type State-Owned Enterprise; Tax ID No. 101148789 (Belarus) [BELARUS-EO14038].

Designated pursuant to section 1(a)(vii) of E.O. 14038 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, the Government of Belarus.

2. OPEN JOINT STOCK COMPANY AMKODOR MANAGEMENT HOLDING COMPANY (a.k.a. AMKODOR OAO; a.k.a. OTKRYTOE AKTSIONERNOE OBSHCHESTVO AMKODOR UPRAVLYAYUSHCHAYA KOMPANIYA KHOLDINGA), D. 8, kom. 201, Nezhiloe pomeshchenie, ul. P. Brovki, Minsk 220013, Belarus; Tax ID No. 100135676 (Belarus); Government Gazette Number 05762507 (Belarus) [BELARUS-EO14038].

Designated pursuant to section 1(a)(iv) of E.O. 14038 for operating or having operated in the construction sector of the Belarus economy.

3. TABAK INVEST LLC (Cyrillic: ООО ТАБАК ИНВЕСТ) (a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU TABAK INVEST), D. 22, Nezhiloe pomeshchenie, ul. Gusovskogo, Minsk 220073, Belarus; Organization Established Date 1997; Tax ID No. 101333138 (Belarus) [BELARUS-EO14038].

Designated pursuant to section 1(a)(iv) of E.O. 14038 for operating or having operated in the tobacco products sector of the Belarus economy.

4. REPUBLICAN PRODUCTION AND TRADE UNITARY ENTERPRISE MANAGEMENT COMPANY OF THE HOLDING BELARUSIAN CEMENT COMPANY (Cyrillic: РЕСПУБЛИКАНСКОЕ ПРОИЗВОДСТВЕННО ТОРГОВОЕ УНИТАРНОЕ ПРЕДПРИЯТИЕ УПРАВЛЯЮЩАЯКОМПАНИЯ ХОЛДИНГА БЕЛОРУССКАЯ ЦЕМЕНТНАЯ КОМПАНИЯ) (a.k.a. BELARUSIAN CEMENT COMPANY HOLDING; a.k.a. RESPUBLIKANSKOE PROIZVODSTVENNO TORGOVOE UNITARNOE PREDPRIYATIE UPRAVLYAYUSHCHAYA KOMPANIYA KHOLDINGA BELORUSSKAYA TSEMENTNAYA KOMPANIYA; a.k.a. RPTUP MANAGEMENT COMPANY OF HOLDING BELARUSIAN CEMENT COMPANY (Cyrillic: РПТУП УПРАВЛЯЮЩАЯ КОМПАНИЯ ХОЛДИНГА БЕЛОРУССКАЯ ЦЕМЕНТНАЯ КОМПАНИЯ); a.k.a. STATE ENTERPRISE HOLDING MANAGEMENT COMPANY BELARUSSIAN CEMENT COMPANY; a.k.a. UPRAVLYAYUSHCHAYA KOMPANIYA KHOLDINGA BTSK GP), Mulyavina Boulevard 6, Minsk 220005, Belarus; D. 28, Nezhiloe pomeshchenie, ul. Kuzmy Minina, Minsk 220014, Belarus; Target Type State-Owned Enterprise; Tax ID No. 192039638 (Belarus) [BELARUS-EO14038].

   Designated pursuant to section 1(a)(vii) of E.O. 14038 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, the Government of Belarus.

5. BELARUSIAN PRODUCTION AND TRADE CONCERN OF TIMBER WOODWORKING AND PULP AND PAPER INDUSTRY (Cyrillic: БЕЛОРУССКИЙ ПРОИЗВОДСТВЕННО ТОРГОВЫЙ КОНЦЕРН ЛЕСНОЙ ДЕРЕВООБРАБАТЫВАЮЩЕЙ И ЦЕЛЛЮЛОЗНО БУМАЖНОЙ ПРОМЫШЛЕННОСТИ) (a.k.a. BIELARUSKI VYTVORCHA HANDLIOVY KANCERN LIASNOJ DREVAAPRACOWCHAJ I CELIULOZNA PAPIAROVAJ PRAMYSLOVASCI (Cyrillic: БЕЛАРУСКІ ВЫТВОРЧА ГАНДЛЁВЫ КАНЦЭРН ЛЯСНОЙ ДРЭВААПРАЦОЎЧАЙ І ЦЭЛЮЛОЗНА ПАПЯРОВАЙ ПРАМЫСЛОВАСЦІ); a.k.a. KONTSERN BELLESBUMPROM (Cyrillic: КОНЦЕРН БЕЛЛЕСБУМПРОМ)), GSP, K. Marx Street, 16, Minsk 220030, Belarus; Organization Established Date 21 Jun 1991; Target Type State-Owned Enterprise; Tax ID No. 100377850 (Belarus) [BELARUS-EO14038].

   Designated pursuant to section 1(a)(vii) of E.O. 14038 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, the Government of Belarus.

6. JSC MINSK MECHANICAL PLANT NAMED AFTER S.I. VAVILOV MANAGEMENT COMPANY OF BELOMO HOLDING (Cyrillic: ОАО МИНСКИЙ МЕХАНИЧЕСКИЙ ЗАВОД ИМЕНИ С.И. ВАВИЛОВА УПРАВЛЯЮЩАЯ КОМПАНИЯ ХОЛДИНГА БЕЛОМО) (a.k.a. BELARUSIAN OPTICAL AND MECHANICAL ASSOCIATION; a.k.a. OAO MMZ IMENI S.I. VAVILOVA UPRAVLYAYUSHCHAYA KOMPANIYA KHOLDINGA BELOMO (Cyrillic: ОАО ММЗ ИМЕНИ С. И. ВАВИЛОВА УПРАВЛЯЮЩАЯ КОМПАНИЯ ХОЛДИНГА БЕЛОМО); a.k.a. OJSC

MMW NAMED AFTER S.I. VAVILOV MANAGING COMPANY OF BELOMO HOLDING (Cyrillic: ААТ ММЗ ІМЯ С.І. ВАВІЛАВА КІРУЮЧАЯ КАМПАНІЯ ХОЛДЫНГУ БЕЛОМА); a.k.a. OTKRYTOE AKTSIONERNOE OBSHCHESTVO MINSKII MEKHANICHESKII ZAVOD IMENI S.I. VAVILOVA UPRAVLYAYUSHCHAYA KOMPANIYA KHOLDINGA BELOMO), 23 Makayonok St., Minsk 220114, Belarus; Target Type State-Owned Enterprise; Tax ID No. 100185185 (Belarus); Government Gazette Number 14541426 (Belarus) [BELARUS-EO14038].

Designated pursuant to section 1(a)(vii) of E.O. 14038 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, the Government of Belarus, and section 1(a)(iv) of E.O. 14038 for operating or having operated in the defense and related materiel sector of the Belarus economy.

7. JSC ZENIT BELOMO (Cyrillic: ОАО ЗЕНИТ БЕЛОМО) (a.k.a. ААТ ZENIT BELOMA (Cyrillic: ААТ ЗЕНІТ БЕЛОМА); a.k.a. JOINT STOCK COMPANY ZENIT BELOMO; a.k.a. OTKRYTOE AKTSIONERNOE OBSHCHESTVO ZENIT BELOMO), 26 Chapayev Str., Vileyka, Minsk Region 222416, Belarus; Target Type State-Owned Enterprise; Tax ID No. 600102155 (Belarus) [BELARUS-EO14038].

   Designated pursuant to section 1(a)(vii) of E.O. 14038 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, the Government of Belarus, and section 1(a)(iv) of E.O. 14038 for operating or having operated in the defense and related materiel sector of the Belarus economy.

8. SCIENTIFIC TECHNICAL CENTER LEMT BELOMO (Cyrillic: НАУЧНО ТЕХНИЧЕСКИЙ ЦЕНТР ЛЭМТ БЕЛОМО) (a.k.a. NAUCHNO PROIZVODSTVENNOYE CHASTNOYE UNITARNOE PREDPRIYATIE NAUCHNO TEKHNICHESKI TSENTR LEMT BELOMO; a.k.a. SCIENTIFIC PRODUCTION UNITARY ENTERPRISE STC LEMT; a.k.a. UP NTTS LEMT BELOMO (Cyrillic: УП НТЦ ЛЭМТ БЕЛОМА)), D. 23, korp. 1, Nezhiloe pomeshchenie, ul. Makaenka, Minsk 220114, Belarus; Target Type State-Owned Enterprise; Tax ID No. 100230590 (Belarus) [BELARUS-EO14038].

   Designated pursuant to section 1(a)(vii) of E.O. 14038 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, the Government of Belarus, and section 1(a)(iv) of E.O. 14038 for operating or having operated in the defense and related materiel sector of the Belarus economy.

9. REPUBLICAN UNITARY ENTERPRISE BELTAMOZHSERVICE (a.k.a. RESPUBLIKANSKAYE UNITARNAYE PRADPRYEMSTVA BELMYTSERVIS (Cyrillic: РЭСПУБЛІКАНСКАЕ УНІТАРНАЕ ПРАДПРЫЕМСТВА БЕЛМЫТСЭРВІС); a.k.a. RESPUBLIKANSKOE UNITARNOE PREDPRIYATIE BELTAMOZHSERVIS (Cyrillic: РЕСПУБЛИКАНСКОЕ УНИТАРНОЕ ПРЕДПРИЯТИЕ БЕЛТАМОЖСЕРВИС); a.k.a. RUE BELTAMOZHSERVICE; a.k.a. RUP

BELMYTSERVIS (Cyrillic: РУП БЕЛМЫТСЭРВІС); a.k.a. RUP BELTAMOZHSERVIS (Cyrillic: РУП БЕЛТАМОЖСЕРВИС)), D. 18, Kitaisko-Belorusski Industrialny Park Veliki Kamen, Pr-t, Pekinski, Minskaya Oblast, 222210, Belarus; 17th km, Minsk-Dzerzhinsk Highway, Administrative Building, Office 75, Shchomyslitsky, Minsk Region 223049, Belarus; Organization Established Date 09 Jun 1999; Target Type State-Owned Enterprise; Tax ID No. 101561144 (Belarus) [BELARUS-EO14038].

Designated pursuant to section 1(a)(vii) of E.O. 14038 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, the Government of Belarus.

10. OJSC HORIZONT HOLDING MANAGEMENT COMPANY (Cyrillic: ОАО УПРАВЛЯЮЩАЯ КОМПАНИЯ ХОЛДИНГА ГОРИЗОНТ) (a.k.a. OTKRYTOE AKTSIONERNOE OBSHCHESTVO UPRAVLYAYUSHCHAYA KOMPANIYA KHOLDINGA GORIZONT; a.k.a. "HORIZONT GROUP"), 35-1 Kuibysheva St., Minsk 220029, Belarus; Target Type State-Owned Enterprise; Tax ID No. 101050240 (Belarus) [BELARUS-EO14038].

Designated pursuant to section 1(a)(vii) of E.O. 14038 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, the Government of Belarus.

11. PLANAR RESEARCH AND PRODUCTION HOLDINGS FOR PRECISION ENGINEERING (Cyrillic: НАУЧНО-ПРОИЗВОДСТВЕННЫЙ ХОЛДИНГ ТОЧНОГО МАШИНОСТРОЕНИЯ ПЛАНАР) (a.k.a. PLANAR JOINT STOCK COMPANY (Cyrillic: ОТКРЫТОЕ АКЦИОНЕРНОЕ ОБЩЕСТВО ПЛАНАР); a.k.a. PLANAR JSC КВТЕМ (Cyrillic: ОАО ПЛАНАР КБТЭМ)), 2 Partizanskii Ave, 2-31 Bldg, Minsk 220033, Belarus; Target Type State-Owned Enterprise; Tax ID No. 100104937 (Belarus) [BELARUS-EO14038].

Designated pursuant to section 1(a)(vii) of E.O. 14038 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, the Government of Belarus.

Dated: December 5, 2023.

Bradley T. Smith,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2023–27217 Filed 12–11–23; 8:45 am]

BILLING CODE 4810–AL–C

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Bradley Smith, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Action(s)

On December 7, 2023, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are

blocked under the relevant sanctions authority listed below.

BILLING CODE 4810–AL–P

Individuals

1. DENIZ, Fadi (a.k.a. GAZOGLI, Fadi (Cyrillic: ГАЗОГЛИ, ФАДИ); a.k.a. GHAZOGHLI, Fadi; a.k.a. GHAZOGHLI, Fadi Ferzanda), Adma, Keserwan, Lebanon; Hamra, Beirut, Lebanon; La Cite, Jounieh, Lebanon; Bchamoun, Lebanon; Pavla Korchagina D 15 KV 116, Moscow, Russia; Kazlicesme Mah, Kennedy CD 52 E 17 34020 Zeytinburnu, Istanbul, Turkey; 20-22 Wenlock Road, London NI 7GU, United Kingdom; Saint Kitts and Nevis; DOB 04 May 1975; POB Aleppo, Syria; nationality Lebanon; alt. nationality Syria; alt. nationality Russia; alt. nationality Turkey; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Tax ID No. 244705926511 (Russia); Identification Number 117221771 (Lebanon); alt. Identification Number 114048392 (Lebanon); alt. Identification Number 0996361 (Russia); alt. Identification Number 460780224 (United Kingdom) (individual) [SDGT] (Linked To: AL-JAMAL, Sa'id Ahmad Muhammad).

   Designated pursuant to section 1(a)(iii)(C) of Executive Order 13224 of September 23, 2001, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism" (E.O. 13224), 3 CFR, 2019 Comp., p. 356., as amended by Executive Order 13886 of September 9, 2019, "Modernizing Sanctions To Combat Terrorism," 84 FR 48041 (E.O. 13224, as amended) for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, SA'ID AHMAN MUHAMMAD AL-JAMAL (AL-JAMAL), a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

2. DURI, Ahmet (a.k.a. DOURI, Ahmad), Seyitnizam Mahallesi Turan Gunes Sokak Realistanbul Site, Zeytinburnu, Istanbul 34025, Turkey; DOB 12 Jan 1987; POB Aleppo, Syria; nationality Turkey; alt. nationality Syria; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport U15854473 (Turkey); National ID No. 74383101388 (Turkey) (individual) [SDGT] (Linked To: AL-JAMAL, Sa'id Ahmad Muhammad).

   Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, AL-JAMAL, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

3. HUDROJ, Bilal (a.k.a. HODROJ, Bilal; a.k.a. HODROJ, Bilal Yousef (Arabic: يوسف حدرج بلال)) Lebanon; DOB 10 Jul 1968; nationality Lebanon; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport LR2435514 (Lebanon) expires 02 Nov 2031 (individual) [SDGT] (Linked To: AL-JAMAL, Sa'id Ahmad Muhammad).

   Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support

for, or goods or services to or in support of, AL-JAMAL, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

4. ALODHARI, Khaled Yahya Rageh (a.k.a. AL ATHARI, Khaled; a.k.a. AL-'UDARI, Khalid (Arabic: خالد العذري)), Yemen; DOB 01 Jan 1976; nationality Yemen; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport 08213902 (Yemen) expires 30 Dec 2024 (individual) [SDGT] (Linked To: AL-JAMAL, Sa'id Ahmad Muhammad).

   Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, AL-JAMAL, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

Entities

1. ABU SUMBOL GENERAL TRADING L.L.C (Arabic: ابو سمبل للتجارة العامة ش.ذ.م.م), PO Box 86973, Dubai, United Arab Emirates; Deira Al Riqqa, Dubai, United Arab Emirates; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 06 Sep 2000; Business Registration Number 521012 (United Arab Emirates); Economic Register Number (CBLS) 10803911 (United Arab Emirates) [SDGT] (Linked To: AL-JAMAL, Sa'id Ahmad Muhammad).

   Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, AL-JAMAL, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

2. DENIZ CAPITAL LLP, 20-22 Wenlock Road, London Nl 7GU, United Kingdom; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 12 Apr 2023; Company Number OC446835 (United Kingdom) [SDGT] (Linked To: DENIZ, Fadi).

   Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, directly or indirectly, FADI DENIZ, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

3. DENIZ CAPITAL MARITIME INC, Hamilton Development, Unit B, Charlestown, Nevis, Saint Kitts and Nevis; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 20 Sep 2023; Company Number C56866 (Saint Kitts and Nevis) [SDGT] (Linked To: DENIZ, Fadi).

   Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, directly or indirectly, FADI DENIZ, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

4. OOO RUSSTROI-SK (Cyrillic: ООО РУССТРОЙ-СК) (a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTIU RUSSTROI-SK (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ РУССТРОЙ-СК)), ul. Nezhnova, 72

korp. 1, Pomeshch. 12, Pyatigorsk, Stavropol Krai 357502, Russia; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 11 Nov 2014; Tax ID No. 2632813759 (Russia); Registration Number 036032117219 (Russia); alt. Registration Number 262101227926091 (Russia) [SDGT] (Linked To: DENIZ, Fadi).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, directly or indirectly, FADI DENIZ, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

5. PIRLANT ISTANBUL KUYUMCULUK TICARET LIMITED SIRKETI (a.k.a. JAWHIRAH COMPANY ISTANBUL; a.k.a. JAWHIRAH EXCHANGE; f.k.a. OZAR HEDIYELIK ESYA SANAYI VE TICARET LIMITED SIRKETI), Mollafenari Mah. Gazi Sinanpasa Sok. Has Ishani No. 14 K. 1 D. 22, Fatih, Istanbul, Turkey; Website http://www.elitdiamond.net; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 01 Dec 2005; Chamber of Commerce Number 571571 (Turkey); Central Registration System Number 0663-0297-8590-0016 (Turkey) [SDGT] (Linked To: AL-JAMAL, Sa'id Ahmad Muhammad).

   Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, AL-JAMAL, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

6. VANESSA GROUP LIMITED, 20-22 Wenlock Road, London Nl 7GU, United Kingdom; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 2019; National ID No. 12310562 (United Kingdom) [SDGT] (Linked To: DENIZ, Fadi).

   Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, directly or indirectly, FADI DENIZ, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

7. VANESSA IMEX GROUP ITHALAT IHRACAT VE DIS TICARET LIMITED SIRKETI (a.k.a. DENIZ CAPITAL HOLDING AS; a.k.a. FREIGHTEX LOJISTIK DIS TICARET LTD. STI.; a.k.a. VANESSA IMEX SARL), Kazlicesme Mah Kennedy Cad. Buyukyali Ist. St, KBN: 52K/l 76 Zeytinburnu, Istanbul, Turkey; No: 8/3 Mimar Kemalettsn Mahallesi Sair Fitnat Sokak Fatih, Istanbul 34130, Turkey; Bchara Elkhouri, Down Town Sayegh Centre - 2nd Floor, Beirut, Lebanon; Website www.vanessaimex.com; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 10 Jun 2020; Business Registration Number 1237466 (Turkey); Registration Number 247702-5 (Turkey); Central Registration System Number 0922-1156-5400-0001 (Turkey) [SDGT] (Linked To: DENIZ, Fadi).

   Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, directly or indirectly, FADI DENIZ, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

8. HODROJ EXCHANGE S.A.R.L (Arabic: شركة حدرج للصيرفة ش.م.م) (a.k.a. HUDRUJ EXCHANGE), Lebanon; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 01 Sep 2009; Business Registration Number 2017574 (Lebanon) [SDGT] (Linked To: HUDROJ, Bilal).

   Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, AL-JAMAL, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

9. DAVOS EXCHANGE AND REMITTANCES COMPANY KHALED AL ATHARI AND PARTNER GENERAL PARTNERSHIP (Arabic: شركة دافوس للصرافه والتحويلات خالد العذري وشريكه التضامنيه) (a.k.a. DAVOS COMPANY FOR EXCHANGE AND TRANSFERS), Sanaa, Yemen; Website https://davos.exchange; alt. Website https://dafos1990.business.site; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886 [SDGT] (Linked To: AL-JAMAL, Sa'id Ahmad Muhammad).

   Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, AL-JAMAL, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

Dated: December 7, 2023.

Bradley T. Smith,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2023–27234 Filed 12–11–23; 8:45 am]

BILLING CODE 4810–AL–C

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of two individuals that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these individuals are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Bradley T. Smith, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Assistant Director for Compliance, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://ofac.treasury.gov/*).

Notice of OFAC Action

On December 7, 2023, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following individuals are blocked under the relevant sanctions authorities listed below.

Individuals

1. KORINETS, Andrey Stanislavovich (Cyrillic: КОРИНЕЦ, Андрей Станиславович) (a.k.a. DOGUZHIEV, Alexey; a.k.a. WRIGHT, Ian Colin), Syktyvkar, Komi Republic, Russia; DOB 18 May 1987; POB Syktyvkar, Komi Republic, Russia; nationality Russia; Gender Male; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201; Passport 8707233962 (Russia) (individual) [CYBER2].

   Designated pursuant to section l(a)(ii)(D) of Executive Order 13694 of April 1, 2015, "Blocking the Property of Certain Persons Engaging in Significant Malicious Cyber-Enabled Activities," 80 FR 18077, 3 CFR, 2015 Comp., p. 297, as amended by Executive Order 13757 of December 28, 2016, "Taking Additional Steps to Address the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities," 82 FR 1, 3 CFR, 2016 Comp., p. 659 (E.O. 13694, as amended) for being responsible for or complicit in, or having engaged in, directly or indirectly, an activity described in section 1(a)(ii) of E.O. 13694, as amended.

2. PERETYATKO, Ruslan Aleksandrovich (Cyrillic: ПЕРЕТЯТЬКО, Руслан Александрович), Syktyvkar, Komi Republic, Russia; DOB 03 Aug 1985; nationality Russia; Gender Male; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201; Passport 8708321052 (Russia); Tax ID No. 111601632100 (Russia) (individual) [CYBER2].

   Designated pursuant to section l(a)(ii)(D) of E.O. 13694, as amended, for being responsible for or complicit in, or having engaged in, directly or indirectly, an activity described in section 1(a)(ii) of E.O. 13694, as amended.

Dated: December 7, 2023.

Bradley T. Smith,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2023–27192 Filed 12–11–23; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request Relating to Consent for Disclosure of Non-Tax IRS Records Protected Under the Privacy Act and IRS Request for Individual Access to Non-Tax Records Under the Privacy Act

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning consent for disclosure of non-tax IRS records protected under the privacy act and IRS request for individual access to non-tax records under the privacy act.

DATES: Written comments should be received on or before February 12, 2024 to be assured of consideration

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Include OMB control number 1545–2180 or Consent for Disclosure of Non-Tax IRS Records Protected under the Privacy Act and IRS Request for Individual Access to Non-Tax Records under the Privacy Act.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms should be directed to Kerry Dennis at (202) 317–5751, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *Kerry.L.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Consent for Disclosure of Non-Tax IRS Records Protected under the Privacy Act and IRS Request for Individual Access to Non-Tax Records under the Privacy Act.

OMB Number: 1545–XXXX.

Form Numbers: 15293 and 15603.

Abstract: Form 15293 is used as an option to consent and approve disclosure of your non-tax IRS records. This form may be used by the parent consenting to and authorizing disclosure of the records of a minor or the legal guardian consenting to and authorizing disclosures of the records of an incompetent. Form 15603 is used to request access to non-tax records from a Privacy Act System of Records. This form may also be used by the parent seeking access to the records of a minor or the legal guardian seeking access to the records of an incompetent.

Current Actions: This form is being submitted for OMB approval.

Type of Review: New collection.

Affected Public: Individuals.

Estimated Number of Respondents: 300.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 4,500 hours.

The following paragraph applies to all the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 6, 2023.

Kerry L. Dennis,

Tax Analyst.

[FR Doc. 2023–27239 Filed 12–11–23; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0659]

Agency Information Collection Activity: Statement in Support of Claimed Mental Health Disorder(s) Due to an In-Service Traumatic Event(s)

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before February 12, 2024.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0659'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0659'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 U.S.C. 5103(a), 38 U.S.C. 5107(a), Pub. L. 117–271, Pub. L. 117–303, 38 CFR 3.304(f).

Title: Statement in Support of Claimed Mental Health Disorder(s) Due to an In-Service Traumatic Event(s) (VA Form 21–0781).

OMB Control Number: 2900–0659.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 21–0781 is primarily used to gather certain information about in-service stressors, so VA may assist claimants in establishing the occurrence of the claimed stressor(s). To establish a grant of service-connected compensation, there must be evidence to support the in-service stressor(s) reported by the veteran. This form is voluntary, however, without this information, VA cannot thoroughly assist certain claimants with the research of military records and other sources of information for supporting evidence about the in-service stressor(s). The form requests information that is necessary to conduct meaningful research of evidence to help substantiate the claim.

This revision combines the two previously approved forms under this collection number into *one* form: resulting in the discontinuance of the previously approved VA Form 21–0781a, a new title, and a total reduction overall of burden on the claimant.

Affected Public: Individuals or Households.

Estimated Annual Burden: 87,436.

Estimated Average Burden per Respondent: 45 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 116,581.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2023–27210 Filed 12–11–23; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 88 Tuesday,
No. 237 December 12, 2023

Part II

Department of the Interior

Bureau of Indian Affairs

25 CFR Part 151
Land Acquisitions; Final Rule

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 151

[245A2100DD/AAKC001030/A0A501010.999900]

RIN 1076–AF71

Land Acquisitions

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: Section 5 of the Indian Reorganization Act (IRA or Act) authorizes the Secretary of the Interior (Secretary) to acquire lands in trust for the benefit of Tribal governments and individual Indians. This final rule provides the procedures governing the discretionary acquisition of lands into trust, often referred to as the fee-to-trust process, under the Act. Since these regulations were first promulgated in 1980, the Bureau of Indian Affairs (BIA) has developed extensive experience in the fee-to-trust acquisition process. Relying on that experience and input from multiple stakeholders, this final rule makes the fee-to-trust process more efficient, simpler, and less expensive to support restoration of Tribal homelands.

DATES: This final rule is effective on January 11, 2024.

FOR FURTHER INFORMATION CONTACT: Oliver Whaley, Director, Office of Regulatory Affairs and Collaborative Action (RACA), Office of the Assistant Secretary—Indian Affairs; Department of the Interior, telephone (202) 738–6065, *RACA@bia.gov.*

SUPPLEMENTARY INFORMATION: This final rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs (Assistant Secretary; AS–IA) by 209 Departmental Manual (DM) 8.

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I. Statutory Authority and Background

Congress enacted the Indian Reorganization Act (IRA) in 1934 to address the devasting effects of prior policies and to secure a land base for Indian tribes to engage in economic development and self-determination. Act of June 18, 1934, Pub. L. 73–383, 48 Stat. 984 (codified as amended at 25 U.S.C. 5101 through 5129). Congress expressly authorized ''the Secretary, in his discretion,'' under section 5 of the IRA, to ''acquire through purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights or surface rights to lands, within or without existing reservations, including trust or otherwise restricted allotments whether the allottee be living or deceased, for the purpose of providing land for Indians'' as the term is defined in section 19 of the IRA *Id.* at section 5, codified at 25 U.S.C. 5108; *id.* at section 19, codified at 25 U.S.C. 5129. The regulations at 25 CFR part 151 (part 151) implement this authority and provide the process by which Tribes submit applications to the Department and the criteria under which the Secretary will review the applications.

In October 2021, the Department of the Interior (Department) held consultations on the protection and restoration of tribal homelands and used the feedback from these consultations to inform draft revisions to the part 151 regulations. The Department then held four consultation sessions on the draft revisions in May 2022. Utilizing feedback from those consultations, the Department published the proposed rule on December 5, 2022, 87 FR 74334, and held three Tribal consultation sessions during the public comment period. The first Tribal consultation was held in person on January 13, 2023, at the Bureau of Land Management Training Center in Phoenix, Arizona. The next two Tribal consultations were conducted virtually on Zoom, which occurred on January 19, 2023, and January 30, 2023. Following the consultation sessions, the Department accepted written comments until March 1, 2023.

II. Acquisition of Land in Trust Process

The acquisition of land in trust is the transfer of fee land title from an eligible Indian Tribe or eligible Indian individual(s) to the United States of America, in trust, for the benefit of the eligible Indian Tribe or eligible Indian individual(s). Indian Tribes and individual Indian people who meet the requirements established by Federal statutes and further defined in Federal regulations are eligible to apply for a fee-to-trust land acquisition. All applications for a fee-to-trust acquisition must be in writing and specifically request that the Secretary of the Interior take land into trust for the benefit of the applicant. Applications shall be submitted to the BIA office that has jurisdiction over the lands contained in the application.

The applicant must provide a legal description of the land to be acquired, the legal name of the eligible Indian Tribe or individual, proof of an eligible Indian Tribe or eligible individual(s), the specific reason the applicant is requesting that the United States of America acquire the land for the applicant's benefit, title evidence addressing the lands to be acquired and information that allows the Secretary of the Interior to comply with the National Environmental Policy Act (NEPA) (43 U.S.C. 4321 *et seq.*) and 602 Departmental Manual 2 (602 DM 2)—Hazardous Substances. Each application is evaluated to determine if the applicable criteria defined in part 151 have been addressed. State and local governments having regulatory jurisdiction over the land contained in the application will be notified upon written receipt of an application for a fee-to-trust acquisition. The notice will inform the entities that each will be given 30 days in which to provide written comments as to the acquisition's potential impacts on regulatory jurisdiction, real property taxes and special assessments. The official authorized to accept the request to fee-to-trust acquisition will decide whether to approve the application and acquire the land in trust. All decisions to accept or deny a fee-to-trust acquisition shall be in writing. The length of time to complete the process varies depending on completion of the required steps by the applicant and the BIA.

III. Overview of the Final Rule

This final rule updates the Department's part 151 regulations which govern how the BIA responds to, considers, and processes applications from Tribal governments and individual Indians to acquire land in trust status. The Bureau of Indian Affairs (BIA) has acquired over a million acres of land into trust for Tribes and individual Indians since Congress passed the IRA in 1934. *See* 87 FR 74334, 74335 (Dec.

5, 2022). This final rule is intended to make the fee-to-trust process less burdensome and more cost-efficient. In addition, the Department seeks to improve the fee-to-trust land acquisition process because of the many benefits afforded to Tribal governments and their citizens, such as heightened regulatory jurisdiction over the lands, exemptions from State and local taxation, and restoration of Tribal homelands.

This final rule addresses delays in the current land acquisition process. The average length of time to receive a final fee-to-trust decision is approximately 985 days. Currently, there are 941 cases pending approval by the Department—the majority of which are for non-controversial, on-reservation acquisitions. This final rule will reduce the time it takes BIA to process land into trust applications going forward and address the existing backlog.

The final rule affirms the Secretary's policy to actively implement the IRA's discretionary land into trust authority in a manner that supports self-determination and strengthens Tribal sovereignty. The final rule also furthers implementation of subsequent congressional enactments, such as the Indian Land Consolidation Act (ILCA) and the American Indian Probate Reform Act's (AIPRA) amendments to ILCA, which sought to ''prevent further fractionation of Indian trust allotments, consolidate fractional interests and their ownership into usable parcels, consolidate those interests in a manner that enhances Tribal sovereignty, promote Tribal self-sufficiency and self-determination, and reverse the effects of the allotment policy on Indian Tribes.'' Indian Land Consolidation Act, Public Law 97–459, 96 Stat. 2515; American Indian Probate Reform Act of 2004, Public Law 110–453, 118 Stat. 1804 (codified as amended at 25 U.S.C. 2201 through 2221). The Secretary's land acquisition policy recognizes these objectives and that a Tribal land base ''enhances Tribal sovereignty by accreting land to the Tribes on which they can offer Tribal services and engage in enterprises that promote Tribal self-sufficiency and self-determination.'' *See, e.g., Quinault Indian Nation* v. *Northwest Regional Director, Bureau of Indian Affairs,* 48 IBIA 186, 203 (2008)., 48 IBIA 186, 203 (2008).

Through this rulemaking, the Department seeks to improve processing timelines by establishing a 120-day time frame for issuing a decision once the BIA receives a complete application package. This contrasts with no timeline in the current rule. The average length of time to receive a final fee-to-trust decision is approximately 985 days. Currently, there are 941 cases pending approval by the Department—the majority of which are for non-controversial, on-reservation acquisitions. The final rule also incorporates the Department's process for determining whether a Tribe was ''under Federal jurisdiction'' in 1934, as required under *Carcieri* v. *Salazar,* 555 U.S. 379 (2009).

The final rule articulates criteria for processing four different types of land acquisition: on-reservation, contiguous, off-reservation, and the newly identified initial acquisition. Each acquisition includes certain presumptions intended to improve efficiency based on the BIA's longstanding practices and experience. Several other changes to the regulations seek to solve problems and remove obstacles for Tribes and individual Indians engaged in the BIA's land acquisition process.

IV. Summary of Final Rule and Changes From Proposed Rule to Final Rule

On December 5, 2022, the Department published the proposed rule, 87 FR 74334. The sections below discuss the changes from the proposed rule to the final rule.

§ 151.1 What is the purpose of this part?

The final rule clarifies that this regulation does not govern acquisitions mandated by Federal law. The Department has issued guidance concerning such mandatory acquisitions, including the guidance found in the BIA's Fee-to-Trust Handbook (FTT Handbook), and does not believe regulations are necessary at this time. This is because there are many, varying authorities for mandatory acquisitions, and it is difficult to draft regulations that would be consistent with all current and future mandatory acquisitions. We avoid the risk of creating inconsistency with statutory authorities and judicial orders mandating acquisitions by employing simple guidance on how we approach such acquisitions rather than one-size-fits-all regulations.

Changes from the proposed rule to the final rule in § 151.1 include:

- The opening paragraph of § 151.1 was revised to reference ''acquisition of land mandated by Federal law'' instead of ''acquisition of land mandated by Congress or a Federal court.''

§ 151.2 How are key terms defined?

The final rule adds new definitions for the following terms: *contiguous, fee interest, fractionated tract, Indian land, Indian landowner, initial Indian acquisition, interested party, marketable title, preliminary title opinion, preliminary title report,* and *undivided interest.*

The definitions are also now listed in alphabetical order in § 151.2.

Initial Indian acquisition. Among the new definitions, we note that the term ''initial Indian acquisition'' refers to a new category of acquisitions provided under § 151.12. BIA wishes to support acquisitions for Tribes that do not currently have land held in trust, furthering the BIA's policy of supporting restoration of Tribal homelands. The regulatory criteria for considering initial Indian acquisitions provide a new, more supportive process for Tribes without trust land, as discussed further in § 151.12. Tribal consultation commenters expressed concern that the consultation draft of this revision used the word ''yet'' rather than ''currently'' when referring to land held in trust status. Commenters wanted to ensure that Tribes which may have had land in trust in the past but do not have land in trust now would be covered by the initial Tribal acquisition provision and asked that ''yet'' be changed to ''currently'' to clarify that approach. We have done so here in the final rule. We clarify, in response to the comments, that the final rule's intention is to treat Tribes that previously held land in trust but do not currently hold land in trust in the same manner as Tribes which have never held land in trust.

Marketable title. Tribal consultation commenters also expressed concern regarding the term ''marketable title'', and so we have added a definition for that term to the final rule. Commenters believed that requiring marketable title was inappropriate because land held in trust will not likely ever be sold on the market again, and Tribes may seek to acquire land for cultural, conservation, spiritual, or other reasons that are entirely separate from commercial concerns. BIA appreciates and supports those purposes for an acquisition but notes that the term marketable title is used here in a strictly legal sense rather than a commercial sense, referring to title that a reasonable buyer would accept because it is sufficiently free from substantial defects and covers the entire property that the seller purports to sell.

Individual Indian. The definition of ''individual Indian'' has been modified to remove § 151.2(g)(4), which covered acquisitions outside of Alaska by an Alaska Native. This definition implied that acquisitions of land in trust within Alaska was not permissible under these regulations which is inconsistent with

Sol. Op. M–37076, *The Secretary's Land Into Trust Authority for Alaska Natives and Alaska Tribes Under the Indian Reorganization Act and the Alaska Indian Reorganization Act* and *Akiachak Native Community* v. *Jewell,* 935 F. Supp. 2d 195 (D.D.C. 2013) (finding that the Department's part 151 Alaska exception violated the privileges and immunities clause of the IRA), *vacated as moot, Akiachak Native Cmty.* v. *U.S. Dep't of the Interior,* 827 F.3d 100 (D.C. Cir. 2016) (the State of Alaska's appeal was deemed moot after the Department's rulemaking eliminated the Alaska exception from 25 CFR part 151).

Tribe. The definition of ''Tribe'' has been modified such that an Indian Tribe is any Tribe listed under section 102 of the Federally Recognized Indian Tribe List Act of 1994 (List Act) or slated to be included in the next publication of that list. The List Act was not in place when these regulations were first promulgated in 1980 but should be used now as it is the official record of federally recognized Tribes.

Indian reservation. The definition of ''Indian reservation'' has been modified slightly to ensure a comprehensive understanding of reservation status in Oklahoma after the Supreme Court's decision in *McGirt* v. *Oklahoma,* 140 S. Ct. 2452 (2020). The new definition provides that in the State of Oklahoma, ''wherever historic reservations have not yet been reaffirmed'', the term Indian reservation means land constituting the former reservation of the Tribe as defined by the Secretary. By including this phrase, the final rule makes clear that the Secretary will consider all historic Oklahoma reservations, consistent with *McGirt* and its progeny, as Indian reservations for purposes of this regulation, regardless of whether courts have concluded reaffirmation litigation addressing such historic reservations.

Tribal consolidation area. Finally, we removed the definition of ''Tribal consolidation area''. This term was used only once in the existing rule, regarding the Department's land acquisition policy. The final rule's updated statement of the Department's land acquisition policy will cover any acquisitions in such an area.

Marketable title. The definition of ''marketable title'' was revised for clarity to read ''defect and that covers the entire property'' instead of ''defect and to cover the entire property.''

§ 151.3 What is the Secretary's land acquisition policy?

The existing rule's statement concerning when the Secretary will exercise the discretion to acquire land in trust does not reflect congressional policy clearly in favor of trust acquisition for Tribes and individual Indians, nor does it capture the broad range of purposes for which the lands are used to further Tribal welfare. The revision makes plain that the Secretary's policy is to support acquisitions of land in trust for the benefit of Tribes and individual Indians and that it is the policy of the Department that the Secretary exercise the discretion to acquire land in trust when doing so furthers the broad range of interests outlined in the final rule. The prior technical introductory language has been moved to § 151.3(a).

In § 151.3(b)(3), the Department added additional policy reasons that support an acquisition on behalf of a Tribe, including any reason the Secretary determines will support Tribal welfare, consistent with the goals of the IRA and other statutes authorizing trust acquisitions. We note, however, that none of these policy reasons are required if the subject land is within a reservation (per § 151.3(b)(1)) or if the Tribe already owns an interest in the land, such as a fee interest (per § 151.3(b)(2)). We received comment during the 2022 Tribal consultation encouraging us not to use the word ''establish'' in regard to homelands, and therefore we have changed language to use the word ''protect.'' We also included the policy goal of establishing a Tribal land base and providing for climate change-related acquisitions. Commenters also suggested adding ''cultural practices'' to the list of policy reasons in addition to ''cultural resources,'' and we have done so.

In § 151.3(c), several Tribal consultation commenters pointed out that the word ''adjacent'' is used where the intended meaning was ''contiguous.'' We have changed the text to read ''contiguous,'' to be consistent with commenters' recommendations and our understanding of the existing rule's meaning.

There were no other changes in this section from the proposed rule to the final rule.

§ 151.4 How will the Secretary determine that statutory authority exists to acquire land in trust status?

Section 151.4 lays out in regulatory text the Department's approach to determining statutory authority for acquisitions as required by the Supreme Court's decision in *Carcieri* v. *Salazar,* 555 U.S. 379 (2009), which determined that the word ''now'' in the phrase ''now under Federal jurisdiction'' in the IRA refers to the time of the passage of the IRA in 1934. The final rule incorporates caselaw and analysis by the Department interpreting the Department's statutory authority as guided by *Carcieri.*

The final rule identifies three categories of evidence used to evaluate whether a Tribe was under Federal jurisdiction: conclusive; presumptive; and probative. Conclusive evidence establishes in and of itself both that a Tribe was placed under Federal jurisdiction in or before 1934 and that this jurisdictional status persisted in 1934. If conclusive evidence exists, no further analysis is required. Presumptive evidence strongly indicates that a Tribe was placed under Federal jurisdiction in or before 1934 and may indicate that such jurisdictional status persisted in 1934. Even where presumptive evidence exists, the Department will engage in a detailed review of the historical record to address whether the Tribal applicant came under Federal jurisdiction in or before 1934 and whether that jurisdictional status remained extant in 1934. If neither conclusive nor presumptive evidence exists, the Department will consider all probative evidence in concert, *i.e.,* in a holistic manner to determine whether the historical record, in whole, supports a finding that the Tribal applicant was under Federal jurisdiction in 1934 and retained such status in 1934. Examples of probative evidence are listed in § 151.4(a)(3)(i).

We note that § 151.4(c) explains that, if the Department has previously issued a favorable ''under Federal jurisdiction'' analysis for a Tribe, no additional analysis is needed unless there has been a change in law. Such prior determinations remain valid under the revision.

Section 151.4(e) clarifies that where a statute other than the IRA has authorized trust land acquisitions, the ''under Federal jurisdiction'' IRA analysis provided for in § 151.4(a) through (d) does not apply, and the Secretary may acquire land in trust as permitted by the other Federal law.

Finally, we note that existing § 151.4, ''Acquisitions in trust of lands owned in fee by an Indian,'' has been deleted in the final rule as unnecessary. The rule provides for such acquisitions, and existing § 151.4 adds no additional information or process regarding such acquisitions.

Changes from the proposed rule to the final rule in § 151.4 include:

- Adding an introductory paragraph explaining when § 151.4 is applicable.
- Adding ''land held in trust by the United States in 1934'' as conclusive

evidence a Tribe was under Federal jurisdiction in 1934.

- Adding ''land claim settlements'' as an example of ''Federal legislation for a specific Tribe, which acknowledges the existence of jurisdictional relationship with a Tribe in or before 1934'' as presumptive evidence in § 151.4(a)(2)(v).
- Adding ''efforts by the Federal Government to conduct a vote under section 18 of the IRA to accept or reject the IRA where no vote was held;'' Federal ''approval of contracts between a Tribe and non-Indians;'' and Federal ''enforcement of the Trade and Intercourse Acts (Indian trader, liquor laws, and land transactions)'' as examples of probative evidence in § 151.4(a)(3)(i).
- Revising § 151.4(a)(2)(vi) and adding a new provision, § 151.4(a)(4), to confirm that the Secretary may rely on any evidence within the part 83 record that the Tribe was under Federal jurisdiction, consistent with § 151.4(a)(2) and (3).
- Renumbering proposed § 151.4(a)(4) as § 151.4(a)(5) and revising it to state that evidence of executive officials disavowing Federal jurisdiction over a Tribe in certain instances is not conclusive evidence of a Tribe's Federal jurisdictional status because such disavowals cannot themselves revoke Federal jurisdiction over a Tribe.
- Revising § 151.4(c) to reference the ''Department'' instead of the ''Office of the Solicitor.''
- Additional technical edits were made to make language consistent throughout § 151.4.

§ 151.5 May the Secretary acquire land in trust status by exchange?

Minor stylistic changes were made to § 151.5. There were no changes from the proposed rule to the final rule.

§ 151.6 May the Secretary approve acquisition of a fractional interest?

A modification to § 151.6 has been made to clarify how its provisions are consistent with section 2216(c) of ILCA. ILCA at section 2216(c) allows for mandatory acquisitions of fractional interests of a parcel at least a portion of which was in trust or restricted status on November 7, 2000, and is located within a reservation. Tribal consultation commenters were concerned that existing § 151.6 requires use of the discretionary process for such acquisitions, in contravention of past practice and section 2216(c) of ILCA. We assure commenters this is not the case; where section 2216(c) of ILCA provides for mandatory acquisitions of fractional interests, the Department will continue to employ that statutory authority. However, where a fractional interest is off-reservation or trust or restricted status of another fractional interest in the same parcel did not exist on November 7, 2000, section 2216(c) of ILCA does not provide authority for mandatory trust acquisitions, and thus the Department must typically rely on the discretionary acquisition authority provided by the IRA and developed in these regulations. Consistent clarifying language has been added to the introduction of § 151.6.

The proposed rule and the final rule replace the term ''buyer'' with ''applicant.'' The term ''buyer'' is inapposite here; the individual or Tribe is not typically buying any property, but rather applying to the Department to take the individual's or Tribe's fractional interest into trust for the individual's or Tribe's benefit.

Changes from the proposed rule to the final rule in § 151.6 include:

- The opening paragraph of § 151.6 was revised to read ''[t]he Secretary may approve the acquisition of a fractional interest in a fractionated tract in trust status by an individual Indian or a Tribe including when:'' instead of ''[t]he Secretary may approve the acquisition of a fractional interest in a fractionated tract in trust status by an individual Indian or a Tribe only if:''.

§ 151.7 Is Tribal consent required for nonmember acquisitions?

There are no changes to § 151.7. Section 151.8 in the existing rule is redesignated as § 151.7 in the final rule.

§ 151.8 What documentation is included in a trust acquisition package?

Section 151.8 expands substantially upon existing rule § 151.9, ''Requests for approval of acquisitions.'' § 151.8 describes all the pieces of information necessary for the Department to assemble a complete trust acquisition package. Once a complete package is assembled, the final rule requires the Department to notify the applicant and then issue a decision on the application within 120 days. Many Tribal consultation commenters were concerned that no timing deadline was applied to the Department's responsibility to notify applicants of a complete acquisition package; therefore, the final rule includes a requirement that the BIA provides tribes such notification within 30 days.

Tribal consultation commenters also pointed out that § 151.8 may be confusing in that some pieces of a complete application package are provided by the applicant, while some are developed by the Department. The following chart clarifies how the Department and applicants work together to develop a complete application package.

Paragraph No.	Applicant contribution	Department contribution
§ 151.8(a)(1)	A signed letter from the Tribal government supported by a Tribal resolution or other act, or if an individual applicant, a signed letter.	None.
§ 151.8(a)(2)	Documentation from the applicant explaining purpose, and, if an individual, need.	No Department contribution is needed to complete this component of the package. Rather, the Department will consider this information in coming to a decision.
§ 151.8(a)(3)	Statement identifying statutory authority for the acquisition. If the acquisition relies on satisfying the IRA's first definition of Indian, the statement should include evidence that the Tribe was under Federal jurisdiction in 1934 consistent with § 151.4.	The Department will determine whether statutory authority exists based on the Tribe's submission. If the Tribe relies on the IRA's first definition of ''Indian,'' to establish such authority, then the Department will review all relevant evidence to determine whether the Tribe was under Federal jurisdiction consistent with § 151.4.
§ 151.8(a)(4)	An aliquot legal description of the land and a map, or a metes and bounds land description and survey, including a statement of the estate to be acquired, *e.g.,* all surface and mineral rights, surface rights only, surface rights and a portion of the mineral rights, etc.	Concurrence that the description is legally sufficient.

Paragraph No.	Applicant contribution	Department contribution
§ 151.8(a)(5)	Information, or permission to access the land to gather such information, allowing the Department to comply with NEPA and 602 DM 2 regarding hazardous substances.	The Department will develop or adopt and complete NEPA analyses, including any required public process, and develop or adopt Phase I and Phase II Environmental Site Assessments produced under 602 DM 2.
§ 151.8(a)(6)	Evidence of marketable title	Preliminary Title Opinion.
§ 151.8(a)(7)	None (applicant replies to comment letters are invited but not required for a complete acquisition package).	Notification letters to State and local governments and any response letters.
§ 151.8(a)(8)	Statement that any existing encumbrances on title will not interfere with the applicant's intended use.	None.
§ 151.8(a)(9)	None unless warranted by specific application	None unless warranted by specific application.

Regarding the requirement under § 151.8(a)(3) that the Department concur that a description is legally sufficient, many commenters were concerned that this adds a novel requirement to the land into trust process that may present obstacles. The Department clarifies that concurrence with the land description presented by the applicant was and has always been a necessary part of the acquisition process. *See* BIA National Policy Memorandum: Modernizing the Land Description Review Process for Fee-to-Trust Acquisitions, NPM–TRUS–43 (April 6, 2023). The Department has always reviewed land descriptions to ensure they are accurate, that the parcel ''closes,'' and that, generally, the description describes with sufficient specificity what land is to be acquired. The Department's land description concurrence listed in § 151.8 is needed primarily to be comprehensive in the requirements for a complete acquisition package. Without such a provision, a flawed or otherwise insufficient land description could be construed as completing an acquisition package, forcing the Department to deny a request if not resolved before the 120-day time frame expires.

Changes from the proposed rule to the final rule in this section include:

- § 151.8(a)(1) through (6), (8), and (9) were revised to read ''[t]he applicant must submit''.
- Clarification, in new § 151.8(a)(3), that the Tribe is responsible for submitting a statement and any evidence to support a finding of it being under Federal jurisdiction in 1934 to satisfy § 151.4 and renumbering of subsequent provisions of § 151.8(a).
- Clarifying language that an acquisition package is not complete until a pre-acquisition Phase I environmental site assessment, and if necessary, a Phase II environmental site assessment completed pursuant to 602 DM 2 is determined to be sufficient by the Secretary, the Secretary completes a Preliminary Title Opinion, and the Secretary determines that the legal description or survey is sufficient.
- Deleting ''including any associated responses where requested by the Secretary'' from proposed § 151.8(a)(6), now renumbered as § 151.8(a)(7).
- Stylistic changes.

§ 151.9 How will the Secretary evaluate a request involving land within the boundaries of an Indian reservation?

Section 151.9 is the first of four sections providing process for the Secretary's consideration of different types of acquisition applications based on the location of the subject land in relation to an Indian reservation or, in the case of initial Indian acquisitions, the fact that the Tribe has no land currently in trust.

The existing rule considers both on-reservation and contiguous applications under the on-reservation criteria in § 151.10. In the new final rule, the on-reservation acquisition process has been simplified and designed to result in faster decisions in several ways. First, under § 151.9(a), the Secretary is no longer required to consider some of the issues that § 151.10 of the current regulations requires her to consider, such as the need for a Tribal government's acquisition, the impact on State and local government tax rolls, and jurisdictional problems or conflicts of land use which may arise, except as described below. BIA is making this change based on decades of experience showing that on-reservation acquisitions are generally not contentious or challenged because the acquisition may be within existing reservation boundaries, may help to lessen jurisdictional complexities arising from privately-held fee tracts adjacent to tracts held in trust, may help to consolidate Tribal land interests, or may be mandatory under other statutory processes, such as the Indian Land Consolidation Act, as amended. *See* Public Law 97–459, tit. II, *codified at* 25 U.S.C. 2201 *et seq.* Moreover, the Department believes that this change in policy better aligns with the purpose of the IRA. Indeed, the IRA was passed to address ''[t]he disastrous condition peculiar to the Indian situation in the United States'' that was ''directly and inevitably the result of existing.'' Readjustment of Indian Affairs: Hearings Before the Committee on Indian Affairs, House of Representatives on H.R. 7902, 73d Cong., 2d Sess., at 15–16 (Feb 22, 1934), *cited in* Sol. Op. M–37029 ''*The Meaning of 'Under Federal Jurisdiction' for Purposes of the Indian Reorganization Act*'' (March 12, 2014), at 6 (discussing the (General Allotment Act of 1887, Pub. L. 49–105, 24 Stat. 388 (formerly codified at 25 U.S.C. 331–357)). Section 5 of the IRA says nothing about whether restoring these lands to Tribal ownership satisfied a particular need, would negatively impact State and local tax revenue, or would complicate jurisdiction or create conflicts in land use. Given that the subject land is within an Indian reservation set aside by the United States government for the use and welfare of a Tribe and based on the long experience of BIA in processing such applications and then administering land placed into trust, these factors need not be considered for every acquisition. However, under § 151.9(d), the final rule retains notice and an invitation to State and local governments to comment on the acquisition's potential impact on regulatory jurisdiction, real property taxes, and special assessments. If such comments are received, the Secretary will consider them in a holistic analysis of the application. More specifically, the Secretary will no longer be required to consider impacts to State and local taxes for on-reservation acquisitions unless it is raised by a State or local government. The Department also notes and confirms that any comments received on an application, even if not requested, will be considered as part of the overall decision-making process. If no such comments are received, no consideration of these factors is required under the final rule. We note that some commenters wished to eliminate the purpose criterion in § 151.9(a) as well. Because an understanding of purpose is necessary to comply with NEPA and to support the approach described in

§ 151.9(b), BIA is retaining this criterion.

Second, under § 151.9(b), the Secretary will apply great weight to applications pursuing certain important purposes for Tribal welfare, including, for instance, the need to protect Tribal homelands. This will allow the Secretary to appropriately consider which acquisitions will most directly further the critical interests identified in § 151.3. This approach recognizes and incorporates the Secretary's policy to support acquisition of land in trust for the benefit of Tribes. The existing rule's land acquisition policy in § 151.3 was established when the first fee-to-trust regulations were promulgated in 1980. *See* 45 FR 62034. The land acquisition policy in the existing rule is virtually unchanged from the 1980 version and does not account for the many important reasons, many of which were not contemplated in 1980, for which Tribes acquire land in trust today to further self-determination and self-governance. This final rule incorporates these important reasons in the revised § 151.3, which the Secretary's policy is intended to support. Under the new final rule, the Secretary will expressly consider the listed Tribal purposes for land acquisition as part of the holistic consideration applied to land into trust acquisitions under the discretionary authority of the IRA. If an application seeks to have land taken into trust for one of the purposes set forth in § 151.9(b), the Secretary will give great weight to this fact and, because such acquisitions further the policy purposes set out in § 151.3, will provide a detailed explanation of the basis for any disapproval decision, taking into account the important purposes that such an acquisition would serve.

Third, under § 151.9(c), the Secretary will now presume that on-reservation acquisitions will benefit Tribal interests, and therefore should be approved. BIA believes this presumption will further the purpose of the IRA, which, as noted above, Congress enacted in 1934 to address the devasting effects of prior policies and to secure a land base for Indian tribes to engage in economic development and self-determination. Given that the subject land is within an Indian reservation set aside by the United States government for the use and welfare of a Tribe, and given the long history of such lands being removed from Tribal ownership through improper sale or the government's efforts to allot land originally held by the Tribal government, a presumption of benefits from restoring reservation lands to trust status is appropriate and consistent with the Department's policy on land into trust acquisitions. Where a Tribe takes land into trust within its reservation boundaries, that land nearly always serves an important economic, cultural, self-determination, or sovereignty purpose that supports Tribal welfare.

Changes from the proposed rule to the final rule in this section include:

- Making stylistic changes in § 151.9 (b) to emphasize the Secretary's recognition that applications that are for the listed purposes will further the important policy goals identified in § 151.3.
- Clarifying in § 151.9(c) that the Secretary will presume that the acquisition will ''further the Tribal interests described in paragraph (b) of this section and adverse impacts to local governments' regulatory jurisdiction, real property taxes, and special assessments will be minimal, therefore the application should be approved.''
- Adding in § 151.9(d) that the notice to State and local governments will provide 30 calendar days in which to provide written comments to rebut the presumption of minimal adverse impacts to regulatory jurisdiction, real property taxes, and special assessments. If the State or local government responds within 30 calendar days, a copy of the comments will be provided to the applicant, who will be given a reasonable time in which to reply, if they choose to do so in their discretion, or request that the Secretary issue a decision. In considering such comments, the Secretary presumes that the Tribal community will benefit from the acquisition.
- Minor stylistic changes.

§ 151.10 How will the Secretary evaluate a request involving land contiguous to the boundaries of an Indian reservation?

For reasons similar to those noted above, the process for approving acquisitions contiguous to an Indian reservation has also been simplified and designed to result in faster decisions. Under the current regulation at § 151.10(a), the Secretary must consider the need for a Tribal government's acquisition of contiguous land, the impact on State and local government tax rolls, and jurisdictional problems or conflicts of land use which may arise when considering acquisition of land contiguous to the Indian reservation. Under final rule § 151.10(a) through (c), like on-reservation acquisitions under final rule § 151.9(a) through (c), the Secretary is no longer required to consider the need for a Tribal government's acquisition of contiguous land, the impact on State and local government tax rolls, and jurisdictional problems or conflicts of land use which may arise, except as described below, because such impacts, problems or conflicts are presumed to have a minimal adverse impact. Given that the subject land is contiguous to an Indian reservation set aside by the United States government for the use and welfare of a Tribe, and would, after acquisition, form a contiguous parcel, and based on the long experience of BIA in processing such applications and then administering land placed into trust, these factors need not be considered for every acquisition. However, the final rule retains notice and an invitation to State and local governments to comment on the acquisition's potential impact on regulatory jurisdiction, real property taxes, and special assessments. If such comments are received, the Secretary will consider them in a holistic analysis of the application. If no such comments are received, no consideration of these factors is required under the final rule.

Under § 151.10(b), the same approach of granting great weight to important Tribal purposes will be applied in the same manner as for on-reservation acquisitions (*i.e.,* within the boundaries of an Indian reservation) under § 151.9(b). The Secretary also presumes, based on decades of experience in acquiring and administering contiguous trust lands, that the Tribal community will benefit from the acquisition. The existing rule considers both on-reservation and contiguous applications under the on-reservation criteria in § 151.10. The presumption that a community will benefit from acquisition of land in trust reflects an update based on the Secretary's practice and is a change from the current regulations, which contain no presumption of whether a Tribal community will benefit from an acquisition. Trust acquisition of land benefits Tribes because Tribes have new opportunities to pursue self-determination and self-governance on the land, and Tribes can access the Federal programs and services that are available only on trust lands.

Changes from the proposed rule to the final rule in this section include:

- Making stylistic changes in § 151.10(b) to emphasize the Secretary's recognition that applications that are for the listed purposes will further the important policy goals identified in § 151.3. Clarifying in § 151.10(c) that the Secretary will presume that the acquisition ''will further the Tribal interests described above in paragraph (b) of this section, and adverse impacts to local governments' regulatory

jurisdiction, real property taxes, and special assessments will be minimal, therefore the application should be approved.''

• Clarifying in § 151.10(d) that the notice to State and local governments will provide 30 calendar days in which to provide written comments to rebut the presumption of minimal adverse impacts to regulatory jurisdiction, real property taxes, and special assessments.

• Minor stylistic changes.

§ 151.11 How will the Secretary evaluate a request involving land outside of and noncontiguous to the boundaries of an Indian reservation?

Off-reservation acquisitions have been streamlined and designed to result in faster decisions through the same reductions in review criteria described for on-reservation and contiguous acquisitions appearing in § 151.11(a), and by applying the same great weight standard to important Tribal purposes in § 151.11(b). The average length of time to receive a final fee-to-trust decision is now approximately 985 days. The expected time to receive a final decision is expected to significantly decrease, particularly given the new 120-day timeframe in which BIA must issue a decision as established in § 151.8(9)(b).

In addition, existing § 151.11(b) applied a ''bungee cord'' approach, increasing the scrutiny applied to an acquisition as distance from a Tribe's reservation increased. In 1995, the Department amended part 151 to establish a new policy for the acquisition of land in trust when such lands are located outside of and noncontiguous to a tribe's existing reservation boundaries. *See* 60 FR 32874 (June 13, 1995). The proposed rule noted the need to eliminate adverse impacts on surrounding local governments as justification for increasing scrutiny of tribal benefits while giving greater weight to the concerns of State and local governments. *See* 56 FR 32278 (July 15, 1991).

The final rule abandons this approach, providing in new § 151.11(c) that the Secretary presumes the Tribe will benefit from the acquisition, and will consider the location of the land and potential conflicts of land use when reviewing State and local comments as part of the holistic analysis of the application. This revision is consistent with the BIA's long experience in implementing the land into trust authorities under the IRA. Where a Tribe takes land into trust off-reservation, that land nearly always serves an important economic, cultural, self-determination, or sovereignty purpose that supports Tribal welfare. Tribal governments are rational actors that make acquisition decisions carefully based on available resources, such as tribal funds or financing to purchase the land, planning, and purposes valued by the Tribe. Accordingly, the Secretary will no longer apply heightened scrutiny based on distance from the Tribe's reservation but will instead consider the location of the land broadly before issuing a decision.

Changes from the proposed rule to the final rule in this section include:

• Making stylistic changes in § 151.10(b) to emphasize the Secretary's recognition that applications that are for the listed purposes will further the important policy goals identified in § 151.3.

• Deleting ''without regard to distance of the land from a Tribe's reservation boundaries or trust land'' in § 151.11(c).

• Adding in § 151.11(c) that ''the Secretary will consider the location of the land and potential conflicts of land use'' instead of ''the Secretary will consider the location of the land.''

• Stylistic changes.

§ 151.12 How will the Secretary evaluate a request involving land for an initial Indian acquisition?

Section 151.12 is designed to streamline decision-making and support Tribes which do not currently have land in trust. In 1995, the Department amended part 151 to establish a new policy for the placement of lands in trust status for Indian tribes when such lands are located outside of and noncontiguous to a tribe's existing reservation boundaries. *See* 60 FR 32874 (June 13, 1995). This amendment did not, however, account for tribes without reservations. Since that time, applications from tribes without reservations have been processed under the existing rule's off-reservation provisions event though § 151.11(b) does not apply to tribes without reservations. The final rule includes provisions that more appropriately apply to the Secretary's review of applications from tribes without reservations, thus, eliminating confusion. The final rule removes any consideration of the location of the land, except if such consideration is necessary given State and local comments, while also providing the reduced criteria for analysis in § 151.12(a) and great weight granted to important purposes in § 151.12(b). The final rule also establishes a presumption of Tribal benefits for such requests.

Changes from the proposed rule to the final rule in this section include:

• Making stylistic changes in § 151.10(b) to emphasize the Secretary's recognition that applications that are for the listed purposes will further the important policy goals identified in § 151.3. Clarifying in § 151.12(c) that the Secretary will presume that the acquisition ''will further the Tribal interests described in paragraph (b) of this section, and adverse impacts to local governments' regulatory jurisdiction, real property taxes, and special assessments will be minimal, therefore the application should be approved.''

• Clarifying in § 151.12(d) that the notice to State and local governments will provide 30 calendar days in which to provide written comments to rebut the presumption of minimal adverse impacts to regulatory jurisdiction, real property taxes, and special assessments.

• Adding in § 151.12(d) that ''the Secretary will consider the location of the land and potential conflicts of land use'' instead of ''the Secretary will consider the location of the land''.

§ 151.13 How will the Secretary act on requests?

Minor clarifying changes to language were made in § 151.13, including the use of ''Office of the Secretary'' rather than ''Secretary'' in § 151.13(c) and (d). Because the final rule uses the defined term *Secretary* in its inclusive sense to mean all Department staff with delegated authority from the Secretary, here in § 151.13 where we refer to the unusual instance where the Secretary herself and her immediate office have taken over review of an application, we specify that circumstance by using ''Office of the Secretary.''

In addition, the final rule adds new information on the steps that occur after a decision to take land into trust but before signature on the acceptance of conveyance document, described in paragraphs (c)(2)(iii) and (d)(2)(iv). This change is explained in detail below with regard to new § 151.15. Before the BIA may accept a conveyance, the BIA must confirm that the environmental site assessment is current. The environmental site assessment is conducted to determine whether a parcel or parcels in question contain any environmental liabilities. This assessment is different than the BIA's responsibilities under NEPA. The final rule has been revised at § 151.13(c)(2)(iii) and (d)(2)(iv) to eliminate any confusion and to clarify that NEPA must be completed before a decision is made but that a second environmental site review can be

completed after the decision is made but before the land is accepted in trust.

Changes from the proposed rule to the final rule in this section include minor stylistic changes.

§ 151.14 How will the Secretary review title?

Two significant changes were made to the Secretary's title review process. First, our understanding is that in certain jurisdictions, including California, many title insurance companies decline to provide abstracts of title to Tribal applicants. This market failure has created substantial obstacles for such applicants to bring land into trust. Section 151.14(a)(2)(ii) is designed to address that issue by allowing applicants who cannot obtain an abstract of title to instead provide evidence of a title insurance company's declination. In such cases the Secretary may accept the applicant's preliminary title report in place of an abstract of title as sufficient proof of good title under this section. Evidence of declination may be provided as a letter or email from the applicant's title insurance company declining to provide an abstract based on their business practices.

Second, § 151.14(b) allows the Secretary to seek additional action, if necessary, to address liens, encumbrances, or infirmities on title. The existing rule mandates disapproval if the Secretary determines title is unmarketable. The new rule makes this choice discretionary by replacing ''shall'' with ''may.'' While we expect the Department will need to disapprove if title is so deficient as to be unmarketable, the Secretary retains discretion here. The new rule balances the United States interest in obtaining marketable title with the legal consequence that land held in trust is inalienable. The current rule can serve as a barrier to an acquisition when there are infirmities to title that may not be acceptable to a reasonable buyer but would otherwise be acceptable to the Secretary if certain conditions are met (*e.g.,* limiting liability through an indemnification agreement).

Many Tribal consultation commenters were concerned that encumbrances on the land which cannot be conveniently eliminated may prevent acquisition in trust. We clarify here that the Department may accept, in its discretion, some encumbrances on title and, should those encumbrances have the potential to impose costs in the future, the Department may enter into indemnification agreements with the applicant to facilitate the processing of fee-to-trust applications. Under the Checklist for Solicitor's Office Review of Fee-to-Trust Applications, issued by Solicitor Tompkins on January 5, 2017, an indemnification agreement between the BIA and a Tribal applicant to address a responsibility that runs with the land may be appropriate if the Tribal applicant is willing to enter into the indemnification agreement, the risk of liability for the responsibility is low, and the indemnification agreement is the only device that will allow the Department to continue processing the land into trust application. The Department has completed many such agreements and is willing to consider them whenever necessary to further an acquisition.

Changes from the proposed rule to the final rule in this section include:

- Adding in § 151.14(a)(2)(ii) that the Secretary may accept either a preliminary title report or an equivalent document prepared by a title company in place of an abstract of title in certain circumstances.
- Removing the requirement in § 151.14(a)(2)(ii) that the policy of title insurance be less than five years old.
- Updating § 151.14(a) to read ''[t]he applicant submit title evidence as part of a complete acquisition package as described in § 151.8 as follows:''.
- Stylistic changes.

§ 151.15 How will the Secretary conduct a review of environmental conditions?

Section 151.15 covers the Department's environmental responsibilities under NEPA and the Departmental Manual at 602 DM 2. Paragraph (a) simply states that the Department will comply with NEPA; no changes to BIA's practices are created through this paragraph. Section 151.15(b) creates a new process in relation to 602 DM 2. That Departmental policy helps ensure that the Department does not acquire land that has been contaminated by hazardous substances, or that if it does acquire such land unknowingly, its due diligence in examining the property will ensure an innocent landowner defense to liability under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (42 U.S.C. 9601 *et seq.*).

The innocent landowner defense is only available where environmental site assessments developed pursuant to 602 DM 2 are performed or updated within 180 days of an acquisition. Under the existing regulations, many applicants have, therefore, needed to continually update their environmental site assessments while waiting for a decision on their application. Environmental consultant fees in performing this work added significantly to the cost of an acquisition. To address this problem, the proposed revisions anticipate a maximum of two environmental site assessments. One assessment should be prepared to develop a complete application package. Section 151.15(b) provides that, if this assessment will be more than 180 days old at the time of acquisition and thus an update is needed, then a single additional update may be performed after the Secretary issues her notice of decision approving the acquisition, but before the acceptance of conveyance document is signed. Based on lengthy experience in such acquisitions, if no recognized environmental conditions are identified in the first environmental site assessment, the chances are low that any such conditions will have emerged by the time of acceptance. Repeated updates are, therefore, an unnecessary expense for the applicant that will be avoided through new § 151.15(b). We note that § 151.15(b) states that this single additional update ''may'' be required by the Secretary; we use the term ''may'' because if the original environmental site assessment was performed less than six months before the acceptance of conveyance, there is no need to perform an update.

Changes from the proposed rule to the final rule include:

- Adding in § 151.15(b)(1) ''or before formalization of acceptance and all other requirements of this section, §§ 151.13 and 151.14 are met, the Secretary shall acquire the land in trust.''
- Adding in § 151.15(b)(2) ''or before formalization of acceptance'' in the first sentence. And revising the second sentence to reference ''prior to the formalization of acceptance'' instead of ''prior to taking the land in trust status''.

§ 151.16 How is formalization of acceptance and trust status attained?

Section 151.16 explains in greater detail how the final process of accepting land into trust occurs and when. This section replaces existing § 151.14 and expands on its description of formalization of acceptance.

In brief, this section explains that after all procedural steps are completed, including notice of intent to acquire the land in trust, title review, environmental review, and the expiration of the appeal period, the Secretary will sign an instrument of conveyance. That signature places the land into trust for the benefit of the applicant.

Changes from the proposed rule to the final rule in this section include:

- Clarifying in § 151.16(a) that ''[t]he Secretary shall sign the instrument of conveyance after the requirements of §§ 151.13, 151.14, and 151.15 have been met''.
- Clarifying in § 151.16(c) that ''[t]he Secretary shall record the deed with LTRO pursuant to part 150 of this chapter.''

§ 151.17 What effect does this part have on pending requests and final agency decisions already issued?

Section 151.17(a) addresses pending applications, offering a choice to applicants. By default, the Department will continue processing such applications under the existing regulations, with the understanding that altering the applicable process midstream might be an unnecessary disruption, especially for applications that are near the end of the process or awaiting decision.

However, if an applicant wishes to apply the new regulations to its pending application, the applicant may do so by informing us of their choice, with the single exception that the 120-day time frame created in § 151.8(b)(2) will not apply. Given the number of pending applications before the Department, if a large number of such applications were placed at once under the 120-day time frame, the volume could potentially cause serious problems for agency decision-making.

Section 151.17(b) explains that any decisions already made under the existing regulations are not altered by the new regulation.

Changes from the proposed rule to the final rule in this section include:

- Adding that ''[t]he Secretary shall consider the comments of State and local governments submitted under the notice provisions of the previous version of this regulation''.
- Clarifying that the new regulations do not alter decisions made by BIA officials that are undergoing appeal ''on January 11, 2024''.

§ 151.18 Severability

Section 151.18 provides that if any provision of this subpart, or any application of a provision, is stayed or determined to be invalid by a court of competent jurisdiction, it is the Secretary's intent that the remaining provisions shall continue in effect. The Secretary believes this is appropriate because the regulations are largely procedural and that if specific sections were stricken the Secretary would still be able to render decisions in compliance with statutory authority.

V. Public Comments on the Proposed Rule and Response to Comments

Individual comments were separated and categorized after the closing of the comment period on March 1, 2023. Over 95 different entities commented on part 151, including Tribal, State, and local governments, industry organizations, and individual citizens. In total, the submissions were separated into 650 individual comments. Generally, around 81 comments were exclusively supportive, 114 were not supportive, and 455 were neutral or provided general support along with constructive feedback on how the rule may be improved. All public comments received in response to the proposed rule are available for public inspection. To view all comments, search by Docket Number ''BIA–2022–0004'' in *https://www.regulations.gov.* The AS–IA has decided to proceed to the final rule stage after careful consideration of all comments. The AS–IA's responses to significant comments that were not supportive, neutral, or provided general support along with constructive criticism are detailed below. No responses are provided for comments that were exclusively supportive.

Indian Tribes

In general, Tribes who commented were supportive of the proposed part 151 regulations. However, many Tribes included constructive criticism. Commenting Tribes appreciated the Department's inclusion of community benefits and presumptions for approval, the Department's efforts to reduce burdensome requirements, the new tiered categories of acquisitions, and the establishment of timelines.

While Tribes were generally supportive, some comments raised concerns. For example, some Tribes were concerned about applying presumptions to applications for the acquisition of land outside of an applicant Tribe's aboriginal territory. Some Tribes also suggested that Tribal governments should have the same opportunity to comment on acquisitions that State and local governments do. Other Tribes advocated for more flexibility around land descriptions.

State and Local Government

State and local governments that commented opposed the regulations on multiple fronts, including questioning the authority of the Department to implement portions of the regulations under the Administrative Procedure Act (APA), caselaw, and principles of federalism. State and local governments were particularly concerned that the presumptions afforded Tribal applicants as well as the removal of certain provisions including: the scrutiny applied to Tribal benefits in relation to State and local government concerns as the distance of the land at issue from a Tribe's reservation or trust land increased; the requirement that Tribes demonstrate the need for additional land; and the requirement that Tribes supply business plans for review. They also opposed a perceived decreased role for State and local governments in the process, such as eliminating the consideration of jurisdictional problems or potential conflicts over land use and the removal of solicitations for State and local governments to comment on on-reservation acquisitions. State and local governments also provided detailed suggestions for how the Department should notify State and local governments. This rulemaking comports with the APA and is within contemplated congressionally delegated authority of the Assistant Secretary—Indian Affairs. Multiple Federal courts of appeals have rejected claims that section 5 of the IRA violates the nondelegation doctrine or that it otherwise violates constitutional concepts of federalism. *See Mich. Gambling Opposition* v. *Kempthorne,* 525 F.3d 23, 30 (D.C. Cir. 2008); *Carcieri* v. *Kempthorne,* 497 F.3d 15 (1st Cir. 2007), *rev'd on other grounds, Carcieri* v. *Salazar,* 555 U.S. 379 (2009); *South Dakota* v. *U.S. Dep't of Interior,* 487 F.3d 548 (8th Cir. 2007); *South Dakota* v. *U.S. Dep't of Interior,* 423 F.3d 790 (8th Cir. 2005); *United States* v. *Roberts,* 185 F.3d 1125, 1137 (10th Cir. 1999); *see also Confederated Tribes of Siletz Indians* v. *United States,* 110 F.3d 688, 698 (9th Cir. 1997) (stating in dicta that the land into trust power is a valid delegation).

§ 151.1 What is the purpose of this part?

Comment. Many Tribes see this as a necessary revision because ''the fee-to-trust regulations normally do not apply to transactions in these categories because of the legal framework governing them,'' including acquisition of fee land by Tribes and acquisitions mandated by statute. They suggest that numbering this section may improve comprehension—like so: ''This part does not cover: (1) acquisition of land by individual Indians and Tribes in fee simple even though such land may, by operation of law, be held in restricted status following acquisition; (2) acquisition of land mandated by Federal law; (3) acquisition of land in trust status by inheritance or escheat; or (4)

transfers of land into restricted fee status unless required by Federal law.''

• *Response:* The Department agrees that clarifying when the Secretary will apply the part 151 regulations is an important addition to the final rule. The final rule clarifies that this regulation does not govern acquisitions mandated by Federal law. The Department has issued guidance concerning such mandatory acquisitions, including the guidance found in the FTT Handbook, and does not believe regulations are necessary at this time. The formatting in the section is consistent with the rest of the rule therefore the Department declines to make the suggested formatting revision.

Comment. One Tribe noted that the regulations do not set out the procedures in a comprehensive manner. The Tribe suggested that this section reference all applicable procedures, letting applicants know exactly what will be applied and when.

• *Response:* Specific instructions regarding the fee-to-trust process are contained in guidance outside the regulation (*e.g.,* FTT Handbook). However, policy and guidance change over time, including where it is located, so the regulation does not identify specific policy and guidance documents. BIA will be updating the FTT Handbook to reflect the changes made in this final rule.

Comment: One Tribe suggested that consideration should be given to the terms ''trust'' and ''restricted'' for clarity.

• *Response:* The final rule is sufficiently clear and articulates the scope of the rule without the need for additional definitions.

Comment: One commenter suggested that this section include a baseline process for fee-to-trust, including a provision stating that acquisitions mandated by Federal law be exempt. The commenter also pointed out that Federal courts have no authority to acquire land in trust for Indians without some action by the Congress.

• *Response:* The final rule makes clear that the new regulations govern discretionary decisions to acquire land into trust. The FTT Handbook clarifies how the Department will process acquisitions mandated by Federal law.

Comment: One Tribe noted a concern that the proposed regulations may unintentionally advantage some Tribes at the expense of others. The Tribe suggested an addition to this section clarifying that neither the definitions and terminology in the part 151 regulations nor the findings and decisions made in the applications of the part 151 regulations are intended to be binding for purposes of other decision-making processes conducted under other authorities, including, without limitation, 25 U.S.C. 2719 and 25 CFR part 292 (part 292).

• *Response:* The Department agrees that the definitions and terminology are not intended to be binding for other decision-making processes, including those made under 25 U.S.C. 2719 and part 292 but disagrees that the rule requires additional clarification of that point.

Comment: One Tribe suggested that this section specify that the Secretary's land acquisition regulations should apply to mandatory and discretionary acquisitions to the extent that it does not conflict with Federal legislation resolving land claims.

• *Response:* The Department acknowledges that Congress often addresses both mandatory and discretionary trust acquisitions as part of legislation. The regulations as written apply solely to discretionary acquisitions provided for in legislation. The requirements for discretionary acquisitions set forth in this rule, and mandatory acquisitions set forth in the FTT Handbook, aim to ensure the Department's compliance with applicable requirements, including the National Environmental Policy Act (NEPA) and the Departmental Manual at 602 DM 2.

§ 151.2 How are key terms defined?

Contiguous

Comment: Several commenting Tribes proposed the addition of ''navigable rivers'' to the definition of ''contiguous'' as follows: ''Contiguous means two parcels of land having a common boundary notwithstanding the existence of non-navigable waters or navigable rivers or a public road or right-of-way and includes parcels that touch at a point.'' One Tribe suggested adding the following phrase: ''Contiguous shall include two parcels of land separated by navigable water if the navigable water is subject to the Tribe's treaty or other fishing rights and each parcel is accessible by water.''

• *Response:* Under the rule, the process for approving acquisitions contiguous to an Indian reservation has been simplified. The definition of contiguous is intended to formalize long-standing BIA practice with respect to evaluating contiguity and is sufficiently clear to guide the Department and applicants regarding whether a parcel is contiguous. There of course will be fact patterns that require additional analysis. The Department declines to add ''navigable rivers'' to the definition because in some instances such a change could result in parcels that are a significant distance from one another being considered contiguous.

Comment: One Tribe requested more clarity on what constitutes a ''public road'' for this definition. The Tribe also suggested that the Department address whether there is a distinction between ''contiguous'' and ''adjacent.''

• *Response:* The Department agrees that the nature of a public road could be dramatically different depending on the location and may require additional analysis. Separation of two parcels by a public road does not necessarily render the parcels noncontiguous for purposes of part 151. The definition is sufficiently clear to guide the Department and applicants regarding whether a parcel is contiguous. There of course will still be instances that require additional analysis. We acknowledge that the terms ''adjacent'' and ''contiguous'' are similar but have slightly different meanings, *i.e.,* adjacent generally means close to or near something rather than sharing a common boundary. The Department believes the definition of contiguous is sufficient to cover lands that are contiguous and no separate definition of adjacent is necessary.

Comment: Another Tribe urged the Department to clarify that land accepted into trust as ''contiguous'' pursuant to 25 CFR 151.10 is ''contiguous'' for gaming purposes under 25 CFR 292.2.

• *Response:* The definition of contiguous is consistent with the part 292 definition, and in general should result in a similar analysis; however, determinations made under part 151 and part 292 are separate and rely on different statutory authority.

Comment: Other Tribes also requested clarification on whether the definition should include two *or more* parcels of land and whether parcels with common corners or those separated only by a road or right of way are included.

• *Response:* The use of the phrase two ''or more'' parcels could cause confusion where, for example, parcels may share more than one border. To avoid confusion, the definition was not changed. This definition includes parcels that touch at their corners. Separation of two parcels by a public road or right-of-way does not necessarily render the parcels noncontiguous for purposes of part 151. There of course will still be instances that require additional analysis.

Comment: One Tribe recommended the addition of the following definition for ''adjacent'' property to § 151.2: Adjacent means two parcels of land connected by natural, social, cultural, or economic ties, though they are not

contiguous, as determined by any of the following factors: (1) the physical distance between parcels, (2) the ease of travel between parcels, (3) the parcels sharing the same natural characteristics or supporting the natural functions of each other, (4) the cultural connection between the parcels, or (5) the parcels being part of a larger economic plan or strategy.

• *Response:* The definition of contiguous is sufficient to guide the analysis. There of course will still be instances that require more in-depth review. The rule only uses the term contiguous. We acknowledge that the terms ''adjacent'' and ''contiguous'' are similar but have slightly different meanings, *i.e.,* adjacent generally means close to or near something rather than sharing a common boundary. The Department believes the definition of contiguous is sufficient to cover lands that are contiguous and no separate definition of adjacent is necessary.

Indian Land

Comment: One Tribe pointed out that including a definition of the term *Indian land* could lead to confusion in the future because the term ''Indian Lands'' is a term from the Indian Gaming Regulatory Act (IGRA), which is not at issue here and suggested the definition might not be necessary.

• *Response:* The definition clarifies that Indian land as it relates to the part 151 regulations includes those held in trust or restricted status. IGRA provides a separate definition for the term Indian lands which is applicable in the gaming context. *See* 25 U.S.C. 2703(4). The Department believes there is sufficient statutory clarity and distinction for how the term is used in the IGRA context such that the part 151 definition will not lead to confusion. The part 151 definition should not be used in the gaming context or to determine gaming eligibility; it is for the purpose of land into trust.

Indian Reservation or Tribe's Reservation

Comment: Some Tribes would like clarification on whether ''The Secretary will consider all historic Oklahoma Reservations consistent with *McGirt*'' is intended to include all Oklahoma Tribes or just the Five Tribes.

• *Response:* This provision applies to all Oklahoma Tribes.

Comment: One Tribe suggested that the principles of *McGirt* are broadly applicable. Therefore, the regulations' language should apply in Oklahoma and to any place where historic reservations have yet to be reaffirmed. The Tribe suggested the following language:

(1) That area of land set aside for the use and occupancy of an Indian Tribe(s) by treaty, statute, executive order, or Secretarial proclamation or order, including both formal and informal reservations as well as dependent Indian communities, allotments, and restricted fee lands;

(2) That area of land over which a Tribe is recognized by the United States as having governmental jurisdiction; or

(3) That area of land constituting the former reservation of a Tribe as defined by the Secretary, including:

(a) In Oklahoma, where there has been no final determination affirming the Tribe's reservation; or

(b) Elsewhere, where there has been a final determination the Tribe's reservation has been diminished or disestablished.

• *Response:* The proposed language in section (1) could, in some instances, go beyond what is intended to be included within the definition. The Department therefore declines to include the proposed revision. The proposed language in section (2) is part of the proposed rule and articulates the general definition that an *Indian reservation* or *Tribe's reservation,* for purposes of part 151, includes those lands over which the Tribe is recognized by the United States as having governmental jurisdiction. Specific to Oklahoma, the rule provides for a concise statement consistent with the *McGirt* decision as well as agency precedent. *See, e.g., Shawano County, Wisconsin* v. *Acting Midwest Regional Director, BIA,* 53 IBIA 62 (2011) (because there was a judicial determination that the Tribe's reservation was disestablished and the parcels were within the original boundaries of the disestablished reservation, BIA's consideration under the ''on-reservation'' criteria was appropriate). The Department therefore declines to adopt the proposed language in section (3).

Individual Indian

Comment: One Tribe pointed out a possible error in the definition of *Individual Indian,* noting that it requires that an individual be both (1) a descendent of an enrolled Tribal member, and (2) personally have lived on a reservation in 1934. Under this definition, only a person above the age of 88 (the youngest possible age to have been alive in 1934) would be eligible. The Tribe suggested the following revision to proposed § 151.2(c)(2): ''any person who is a descendent of an enrolled Tribal member who, on June 1, 1934, was physically residing on an Indian reservation.''

• *Response:* This language is adapted from the IRA, 25 U.S.C. 5129, and is sufficiently clear to guide the Department and applicants. The Department agrees the second category in the definition constitutes a closed class of individuals consistent with Sol. Op. M–37054, ''*Interpreting the Second Definition of 'Indian' In Section 19 of the Indian Reorganization Act of 1934*'' (Mar. 9, 2020).

Comment: One commenter stated that the third definition of Individual Indian appears to be based on racial or ethnic criteria and asked what processes and procedures are used to determine the degree of Indian blood?

• *Response:* The language is taken from the IRA and the process for determining eligibility under the third definition is separate from the part 151 regulations.

Initial Indian Acquisition

Comment: While some Tribes supported the definition of *Initial Indian acquisition,* others pointed out that where land has been acquired or held in trust, but for various reasons, the United States no longer holds land in trust for a Tribe, it is not technically an initial acquisition.

• *Response:* The Department believes the definition provides sufficient clarity that an initial acquisition applies to Tribes with no land *currently* held in trust status and no revision is necessary.

Interested Party

Comment: Several Tribes raised questions regarding terms within the definition of *Interested party,* including what constitutes a legally protected interest and to what extent such an interest must be affected to meet the definition. There was general concern that the definition was overly broad.

• *Response:* The Department weighed these concerns and looked at the effect of adopting a narrower definition of the term *Interested party. Interested party* is used in § 151.13 to define those parties entitled to notice of a decision and any appeal rights. The commenters' suggestion to narrow the definition unnecessarily limits those parties who should receive notice of the decision. As a result, the substance of the final rule is the same as the proposed rule. We note that it is possible for a party to satisfy the definition of *Interested party* yet have no right to appeal a decision, *i.e.,* have no standing to do so. The Department also notes that providing notice to a party does not confer legal standing to bring a challenge.

Comment: Some commenting Tribes suggested that the Department clarify that an interested party must show its

legally protected interests would be *adversely affected* by a decision.

• *Response:* The 25 CFR part 2 (part 2) regulations further define those parties *adversely affected* by a decision. For purposes of part 151, it is not necessary for an interested party to be *adversely affected,* instead an interested party is one with a legally protected interest affected by a decision. The Department has not adopted the specific language suggested by the commenter, nor added a definition of legally protected interest.

Comment: Several Tribes suggested merging the definition of *Interested party* in proposed § 151.2 with part 2. One Tribe included a detailed description of how the language from part 2 could be incorporated into the part 151 regulations.

• *Response:* The part 151 *Interested party* definition closely resembles the part 2 regulation, wherein interested party is defined as ''a person or entity whose legally protected interests are adversely affected by the decision on appeal or may be adversely affected by the decision of the reviewing official.'' *See Proposed Rule, Appeals from Administrative Actions,* 87 FR 73688 (Dec. 1, 2022). The part 2 regulation further defines those entities adversely affected by a decision. For purposes of part 151, it is not necessary for an interested party to be adversely affected but instead that they have a legally protected interest affected by a decision. We note that it is possible for a party to satisfy the definition of *Interested party* and yet have no right to appeal a decision, *i.e.,* have no standing to do so. The Department also notes that providing notice to a party does not confer legal standing to bring a challenge.

Comment: One Tribe recommended the following definition for *Interested party:* ''any person, organization or other entity who can establish a legal, factual or property interest in a determination and who requests in writing to the decision maker an opportunity to submit comments or evidence or to be kept informed of general actions regarding a specific application or action. In addition to showing a legal interest, an interested party needs to demonstrate an individualized right or interest—some interest distinct from any other members of the public that they have been adversely affected in a concrete and particularized way.''

• *Response:* The Department has not adopted the specific language suggested by the commenter because it limits the definition to those adversely affected. The final rule is written to aid in understanding which parties will receive written notice of a decision not to identify those parties that have standing to challenge the decision in an administrative appeal. We note that it is possible for a party to satisfy the definition of *Interested Party* and yet have no right to appeal a decision, *i.e.,* have no standing to do so. The Department also notes that providing notice to a party does not confer legal standing to bring a challenge.

Comment: Another Tribe said that appellants that do not or would not, due to the decision, exercise jurisdiction over or have the right to use the property subject to appeal, should lack standing to bring an appeal. The Tribe also asserted that status as a government does not confer standing to bring such an appeal and that an appellant's basis for appeal should not be purely economic.

• *Response:* The Department weighed these concerns and looked at the effect of adopting a narrower definition. The term *Interested party* is used in § 151.13 to define those parties entitled to notice of a decision. The commenter's suggestion is too narrow and eliminates parties that should receive notice of the decision if made known to the decision maker. As a result, the substance of the final rule is the same as the proposed rule. We note that it is possible for a party to be an interested party yet not have the right to appeal a decision *i.e.,* lack standing to do so. The Department also notes that providing notice to a party does not confer standing.

Comment: Some Tribes expressed concern that the proposed language opens the possibility that if a group of neighbors opposes and appeals a final decision on a fee-to-trust application, the acceptance of their appeal may give them the perception that they have a legally protected interest. They further recommended that the definition track the language used in § 151.13, that an ''interested party'' must have ''made themselves known, in writing, to the official, prior to a decision being made.''

• *Response:* While agreeing with the premise, the Department believes that definition of *Interested party* is sufficient to identify the parties entitled to notice of a decision and that issues of standing are more appropriately addressed as part of the appellate authority vested in the agency and the Federal courts. The suggested revision to the definition would complicate § 151.13 because the term Interested party is also used to identify appeal periods for ''unknown interested parties'' provided notice via publication.

Marketable Title

Comment: Multiple commenting Tribes expressed support for the new proposed definition of ''marketable title.'' One Tribe pointed out a possible grammatical mistake in the definition of marketable title: ''to cover'' as it appears to disagree with the preceding clause. They recommended substituting ''to cover'' with ''that covers'' instead.

• *Response:* The Department agrees and has made this change in the final rule.

Comment: One Tribe requested that marketable title be clarified as including all easements and rights of way of record, including any shared maintenance and other agreements that are part of those interests of record.

• *Response:* The definition serves to protect the United States from acquiring land in trust with title infirmities a reasonable buyer would not accept. In general, most easements, rights of way of record and shared maintenance agreements of record are acceptable but still must be evaluated on a case-by-case basis.

Preliminary Title Opinion

Comment: One Tribe commented that preliminary title opinions (PTO) should be defined as non-privileged communications by the Solicitor regarding the existing title status. Because proposed § 151.8 requires a PTO as part of a complete application, the Tribe said it would not make sense to include privileged material. The lack of clarity in the current regulations causes unnecessary delays.

• *Response:* The PTO is a lawyer-client privileged communication between the Office of the Solicitor and BIA. That said, any exceptions to title that must be met prior to acquisition will be communicated to the applicant.

Tribal Homelands

Comment: Some Tribes requested a definition of ''Tribal Homelands,'' as the term is used throughout the regulations. Tribes noted that specific criteria to establish Tribal Homelands would help avoid confusion or conflict in instances where Tribes have overlapping historical territories.

• *Response:* The IRA authorizes the Secretary to acquire lands ''for the purpose of providing land for Indians.'' The regulations articulate the Department's general support for the restoration of Tribal homelands consistent with the IRA's purpose of providing land for Indians and, as such, Tribal homelands is not a term of art that requires definition. The Department agrees that it can be difficult to

demarcate a Tribe's historical territory and that it may overlap with the historical territory of other Tribes, but adding a requirement that the Department render ''Tribal homeland'' determinations in connection with land into trust decisions would unnecessarily lengthen and complicate the review process. The Department therefore declines to include a definition of ''Tribal homelands'' in the final rule.

Tribe

Comment: One Tribe commented that while the List Act contains recognized Tribes eligible for IRA benefits, it also contains Tribes not eligible for IRA benefits.

• *Response:* The Department agrees that the availability of IRA section 5 fee-to-trust authority depends on more than just Federal recognition under the List Act. The definition of federally recognized Tribe is still useful; however, in that acquisitions are limited to federally recognized Tribes.

Other

Comment: Many Tribes expressed support for inclusion of definitions for the terms ''Fee Interest,'' ''Fractionated Tract,'' ''Secretary,'' ''Restricted Land,'' ''Trust Land or Land in Trust Status,'' and ''Tribe.''

• *Response:* The final rule will include the same definitions as the proposed rule.

§ 151.3 What is the Secretary's land acquisition policy?

Comment: Many commenting Tribes expressed support for the land acquisition policy. One Tribe also encouraged the Department to apply § 151.3(b) as broadly as possible.

• *Response:* The broad policy statement in § 151.3 is grounded in the statutory text and authority of the IRA which the Secretary will actively implement to the extent permissible.

Comment: One Tribe referred to the land acquisition policy as ''inappropriately limited and does not describe the policy articulated by the Indian Reorganization Act (IRA),'' codified at 25 U.S.C. 5108. Consequently, the Tribe recommended that the proposed rule use section 5 of the IRA as the authority for the policy.

• *Response:* The Secretary's land acquisition policy articulated in § 151.3 relies on IRA Section 5 authority codified at 25 U.S.C. 5108 and provides a broad range of purposes for acquiring land that meet the intent of the IRA. Therefore, the substance of the final rule is the same as the proposed rule.

Comment: A few Tribes commented that the land acquisition policy should include language like the following: ''When the Secretary determines that the acquisition of the land will further Tribal interests by . . . advancing environmental justice for Tribal communities that have been disproportionately impacted by climate change, pollution, dumping of industrial waste, and other environmentally destructive practices, by helping them to secure safe and usable land.'' Another commenter suggested that the policy is an exercise of the Secretary's fiduciary obligation and should therefore be informed by the Department's desire to address the devastating effects of the Federal Government's treaty, allotment, and termination periods and policies, as well as decisions beyond a Tribe's control that threaten the safety of current Tribal land.

• *Response:* The Department appreciates the commenter's additional basis for the Secretary to acquire land into trust. However, we decline to incorporate the additional language because § 151(b)(3) already includes broad language allowing the Secretary to acquire land in trust status if it is ''for other reasons the Secretary determines will support Tribal welfare.''

Comment: Several Tribes noted the importance of including explicit language stating that the land acquisition policy is intended to ''protect sacred sites and Tribal cultural resources, establish or maintain conservation areas, *burial grounds or cemeteries,* consolidate land ownership to strengthen Tribal governance over reservation lands and reduce checkerboarding, protect treaty or subsistence rights, and facilitate Tribal self-determination, economic development or Indian housing.'' It was further noted that many Tribes are seeking new acquisitions to bury ancestors being repatriated or excavated from their resting places due to development outside of Tribal lands.

• *Response:* The Department agrees that the purposes listed by the commenters are important considerations in the discretionary land into trust process. Section 151.3(b)(3) articulates these broad purposes as reasons the Secretary may acquire land into trust and includes the broad statement that includes ''for other reasons the Secretary determines will support Tribal welfare.''

Comment: One Tribe proposed adding the phrase ''increasing a Tribe's resilience to climate change'' as another reason for the Secretary to approve an acquisition.

• *Response:* The Department agrees that there are purposes not specifically identified that may be important considerations in the discretionary land into trust process. Section 151.3(b)(3) articulates that the Secretary may acquire land into trust ''for other reasons the Secretary determines will support Tribal welfare.''

Comment: Several Tribes recommended § 151.3(b)(3) be revised to read, in pertinent part: ''. . . if the acquisition will further Tribal interests by establishing a land base or protecting Tribal homelands, protecting sacred sites or cultural resources and practices, establishing or maintaining conservation or environmental mitigation areas, consolidating land ownership, acquiring land lost through allotment, reducing checkerboarding, protecting *rights secured by treaty, Executive Order, or other Federal or subsistence rights,* or facilitating self-determination, economic development, or Indian housing.'' These same Tribes also suggested making this change to all sections where this language appears: §§ 151.9(b), 151.10(b), 151.11(b), and 151.12(b).

• *Response:* The Department agrees that Tribes may have rights beyond those secured under treaty. Section 151.3(b)(3) however is not exhaustive and articulates that the Secretary may acquire land into trust ''for other reasons the Secretary determines will support Tribal welfare.''

Comment: Some non-Tribal entities asserted that the Secretary was applying a blanket policy, stating ''the Department appears to draw little or no differentiation between vastly different types of potential trust acquisitions, including those with considerably different land uses, which invariably result in dramatically different impacts to communities.''

• *Response:* The broad policy statement in § 151.3 is grounded in the statutory text and authority of the IRA. NEPA requires Federal agencies to examine the environmental effects of proposed actions before making a decision. The Department's NEPA process requires the BIA to examine environmental and related social and economic effects. The use of the land identified in an application will dictate the level of environmental review that is appropriate to comply with the Department's obligations under NEPA.

Comment: One Tribe commented that language should be added to make clear that even though an acquisition may be authorized under Federal law there may nevertheless be other Federal law or binding agreements (*e.g.,* Tribal-State compacts) that prohibit the Secretary from acquiring land into trust.

• *Response:* Whether a separate agreement (*e.g.,* a gaming compact) constrains the Secretary's authority is a fact specific analysis. For that reason, the Department declines to add the suggested language to the final rule.

Comment: One Tribe commented that lands acquired within a Tribe's reservation or Tribal consolidation area should be deemed to be reservation land without further action. This would avoid any question of whether an on-reservation acquisition requires a Reservation Proclamation.

• *Response:* A reservation proclamation is a separate action under the authority of section 7 of the IRA. The Department notes, however, that an area of land over which a Tribe is recognized by the United States as having governmental jurisdiction (*e.g.,* lands held in trust for the Tribe) are considered reservation under the § 151.2 definition of *Indian reservation* or *Tribe's reservation.* There is no requirement that there be a formal proclamation before a parcel may be considered *Indian reservation* or the *Tribe's reservation* for purposes of a land acquisition under part 151. The final rule provides for a concise statement and the Department declines to make the suggested change.

§ 151.4 How will the Secretary determine that statutory authority exists to acquire land in trust status?

Comment: Numerous Tribes expressed appreciation for the clarity about how the Department will ensure that it has statutory authority to acquire land into trust status. One supportive commenter suggested that the Department elaborate on or provide a non-exhaustive list of ''other forms of evidence.'' Another commenter suggested that the Department include ''Evidence of determinations by appropriate Federal officials that a Tribe or Tribal members were eligible for benefits under the IRA.'' One Tribe expressed support for proposed § 151.4(a)(4) (now renumbered as § 151.4(a)(5)), which gives no legal force or effect to past disavowals of a jurisdictional relationship by executive officials. Another Tribe suggested that evidence of treaty negotiations, non-ratified treaties, and termination legislation should all be considered conclusive rather than presumptive evidence. Another Tribe suggested that this section specifically include Federal legislation settling land claims as conclusive evidence where the legislation provides for mandatory or discretionary acquisitions. Another Tribe suggested that Federal efforts to conduct an accept or reject vote under section 18 of the IRA, even where no vote was held, should be treated as conclusive evidence.

• *Response:* Section 151.4 includes non-exhaustive lists of evidence to meet the conclusive and presumptive standards, as well as a third category for making a determination in the absence of conclusive or presumptive evidence. The ''other forms of evidence'' category is intended to be a catch-all category that allows the Secretary to give appropriate weight to forms of evidence not identified in the lists of ''conclusive'' or ''presumptive'' evidence.

The Department finds that Federal legislation settling tribal land claims is indicative that a Tribe was under Federal jurisdiction in or before 1934, therefore the Department has included such settlements as presumptive evidence. The Department finds that evidence of Federal efforts to conduct elections under section 18 of the IRA, even where no vote was held, should be treated as probative evidence of Federal jurisdiction in the absence of conclusive or presumptive evidence.

Presumptive evidence is rebuttable and, even where presumptive evidence exists, the Department will engage in a detailed review of the historical record. If there is evidence that a Tribe was not under Federal jurisdiction in 1934, the Department will review all available evidence in concert to determine whether, as a whole, the evidentiary record supports a finding that the Tribe was under Federal jurisdiction in 1934.

Comment: One Tribal community requested that the Department publish a list of Tribes that met these thresholds so that future applicants on that list could reference that publication. Another commenter suggested that the rules clarify that proposed § 151.4(c) applies to all Tribes with favorable ''under Federal jurisdiction'' determinations and not just those ''eligible under section 5 of the IRA.'' A Tribe suggested that the Department clarify that past unfavorable ''under Federal jurisdiction'' determinations receive no precedential effect, and that the Department will review such applicants' future applications under this newly articulated standard.

• *Response:* Each Tribe is notified when they receive a positive ''under Federal jurisdiction'' determination and that analysis is maintained by the Department for future applications. Tribes that receive a positive determination from the Department will not need a future ''under Federal jurisdiction'' analysis for subsequent fee-to-trust applications. Such prior determinations remain valid under the proposed revision. If a Tribe has received a negative ''under Federal jurisdiction'' determination from the Department prior to the issuance of the final rule, the Tribe may request a new determination under § 151.4. Because the Department provides notice as described here, the Department declines to provide a separate publication of Tribes that have met the threshold.

Comment: A Tribe requested clarification that proposed § 151.4 ''incorporates existing case law'' and that the tests described have been ''repeatedly upheld by the Federal courts'' and suggested language to further clarify how the IRA and related laws are treated under this section.

• *Response:* Section 151.4 is based on the legal analysis articulated in Sol. Op. M–37029, ''*The Meaning of 'Under Federal Jurisdiction' for Purposes of the Indian Reorganization Act,*'' as well as the Secretary's experience applying IRA's first definition of ''Indian'' under section 19 in the almost fifteen years since the Supreme Court's decision in *Carcieri* v. *Salazar,* 555 U.S. 379 (2009). The Department agrees that the legal analysis and the types of evidence articulated in Sol. Op. M–37029 have been upheld as a reasonable interpretation of the IRA in Federal district and circuit courts. As such, future determinations made under § 151.4 criteria will benefit from the jurisprudence developed around Sol. Op. M–37029. Because § 151.4 is sufficiently clear on this point, the Department declines to make the suggested revision.

Comment: Several Tribes believe that the current language in § 151.4, as it relates to the acquisitions of trust lands owned in fee by an Indian, was replaced without providing additional details or clarity for these types of acquisitions. Therefore, they suggested that the text from the existing § 151.4 be maintained and further clarified in the new proposed section to account for this issue.

• *Response:* Existing § 151.4, ''Acquisitions in trust of lands owned in fee by an Indian,'' was deleted as unnecessary, since the rule already provides for such acquisitions and no additional process or information was established.

Comment: A commenting town suggested that the presumption that Tribes acknowledged through 25 CFR part 83 (part 83) were ''under Federal jurisdiction'' in 1934 should be eliminated, or a process should be established where this rebuttable presumption may be challenged. Others believe this provision is ''arbitrary and capricious'' and should be withdrawn,

noting that Federal acknowledgment materials reviewed under part 83 could show instead that the Tribe was under State jurisdiction in 1934.

• *Response:* The final rule revises proposed § 151.4(a)(2)(vi)), and adds a new provision, § 151.4(a)(4), to confirm that the Secretary may rely on evidence submitted in a 25 CFR part 83 proceeding to demonstrate the assertion of Federal jurisdiction in or before 1934. Depending on the nature of the evidence, it may be considered presumptive or probative, consistent with § 151.4(a)(2) and (3).

At the outset, the Department reiterates the principle that there is no temporal limitation on the term ''recognized'' in 25 U.S.C. 5129, and therefore a Tribe need not have been recognized by the Federal Government in 1934 to meet the IRA's definition of Indian. *See Confederated Tribes of the Grande Cmty. Of Oregon* v. *Jewell,* 830 F. 3d 552, 561 (D.C. Cir. 2016). The question and analysis of whether the Federal Government acknowledges a Tribe under part 83 is a wholly different question than whether Federal jurisdiction existed over a Tribe in 1934. *See id.* at 565 (''Whether the government acknowledged Federal responsibilities toward a Tribe through a specialized, political relationship is a different question from whether those responsibilities in fact existed. And as the Secretary explained, we can understand the existence of such responsibilities sometimes from one Federal action that in and of itself will be sufficient, and at other times from a ''variety of actions when viewed in concert.''); *Carcieri* v. *Salazar,* 555 U.S. 379, 398 (2009) (Breyer, J., concurring) (noting that a Tribe may have been '' 'under Federal jurisdiction in 1934'—even though the Department did not know it at the time.'').

By relying on evidence that supports both recognition under part 83 and an ''under Federal jurisdiction'' determination for purposes of part 151, the Department is in no way suggesting that these inquiries are equivalent. Rather, when the evidence gathered as part of the part 83 process includes evidence that the Federal Government had asserted jurisdiction over a Tribe in or before 1934, such evidence is relevant and the Secretary may consider it as part of her analysis under § 151.4.

The Department declines to establish a new process for challenges to an ''under Federal jurisdiction'' analysis, as the process is internal to the Department and can be challenged through administrative appeal or Federal litigation after final decisions are issued.

Comment: One Tribe provided suggested edits on how treaty negotiations should be treated under these regulations and proposed that § 151.4(a)(2)(i) be moved to § 151.4(a)(1) ''as conclusive evidence of Federal jurisdiction.'' The Tribe applauded the elevated treatment of ''[c]ontinuing existence of treaty rights . . .'' from presumptive evidence to conclusive evidence.

• *Response:* The Department declines to accept the commenter's suggestion to move evidence of treaty negotiations from presumptive to conclusive evidence. The Department has generally treated evidence of treaty negotiations in concert with other supporting evidence to evaluate whether a Tribe was under Federal jurisdiction in 1934.

Comment: One non-Tribal commenter urged the rule to be limited to within reservation boundaries and, where outside those boundaries, to require consistency with enumerated policies. This commenter requested: examples of evidence in the regulations that would indicate Federal jurisdiction did not exist in 1934; and the elimination of any reference to ''climate change'' acquisitions.

• *Response:* The Department declines to accept the commenter's suggestions. Under the IRA, the Secretary's discretionary authority to acquire land in trust status is not limited to on-reservation acquisitions. The Department believes that it is unnecessary to list evidence that may indicate Federal jurisdiction did not exist and declines to eliminate references to climate change.

Comment: Alaska Tribes suggested specific language exempting them from the under Federal jurisdiction analysis.

• *Response:* This is addressed in the Sol. Op. M–37076 and the revised FTT Handbook. Because Alaska Tribes are eligible to have land taken into trust under 25 U.S.C. 5119 and a separate stand-alone definition of Indian in the IRA, it is not necessary that Alaska Tribes show they were under Federal jurisdiction and § 151.4 does not apply.

Comment: One Tribe requested that the Department further clarify what types of legislation are included in legislation enacted ''after 1934 making the IRA applicable to the Tribe'' within the meaning of § 151.4(b).

• *Response:* There are several statutes under which Congress expanded the Secretary's authority to take land into trust under the IRA. Determining whether a statute extended this authority to a specific Tribe, thereby eliminating the need for an under Federal jurisdiction analysis, requires a close examination of the statute's language and purpose. Because each statute varies in the language used, it is not feasible to identify in the final rule which types of legislation make the IRA and its fee-to-trust provisions applicable. One specific example of a subsequent statute extending section 5 of the IRA, and further underpinning the identification of a section 18 election as conclusive evidence, is the ILCA. In the 1980s, Congress amended the IRA through ILCA, 25 U.S.C. 2202, to extend section 5 to all Tribes who voted in section 18 elections, notwithstanding the outcome of those elections.

Comment: Some Tribes questioned whether the under Federal jurisdiction analysis provided for in § 151.4 would be applied to a mandatory acquisition.

• *Response:* Per § 151.1, the part 151 regulations do not apply to the acquisition of land mandated by Federal law. Therefore, no under Federal jurisdiction determination is required for a mandatory acquisition.

§ 151.5 May the Secretary acquire land in trust status by exchange?

Comment: One Tribe commented that § 151.5 only contemplates a situation where a fee land-owning party and an individual Indian or Tribe might exchange lands with each other. However, the Tribe noted that another important instance involving an exchange of lands occurs when the small reservations of some Tribes, including the commenting Tribe, are bounded by and contiguous to other Federal lands, such as National Forest and Bureau of Land Management lands. For the commenting Tribe to add lands to their Reservation, they must acquire Federal lands through a land exchange with a Federal agency. Consequently, the Tribe requested that the following language be added to proposed § 151.5: ''The Secretary may acquire land in trust status on behalf of an individual Indian or Tribe by exchange under this part if authorized by Federal law and within the terms of this part. The secretary may directly acquire land to be conveyed to an individual Indian or Tribe pursuant to a Federal land exchange upon the individual Indian or Tribe authorizing the direct transfer of title from the Federal agency involved in the land exchange to the United States in trust for the individual Indian or Tribe. The disposal aspects of an exchange are governed by part 152 of this title, as applicable.''

• *Response:* The purpose of the regulations is to detail the process the Secretary will use in acquiring lands in trust. It is beyond the scope of these regulations to grant substantive rights

without statutory authority and the Department declines to make the suggested revision.

§ 151.6 May the Secretary approve acquisition of a fractional interest?

Comment: While one Tribe commented that they have no problem with the proposed changes, another objected to the revisions in proposed § 151.6. While the objecting Tribe appreciated the Department's replacement of the term ''buyer'' with ''applicant'' (which they believe better reflects the nature of such acquisitions), they expressed concern that the Department has taken no action to expand opportunities for the acquisition of a fractional interest through the discretionary process. The Tribe believes that both Federal law and the general principles of self-determination favor the idea that Tribal governments should be free to purchase fractional interests in their members' restricted Indian land over time and have such land taken into trust. Accordingly, they recommend revising proposed § 151.6 to use ''including, but not limited to'' language prior to the list of circumstances under which the Secretary may approve a fractional interest, signaling that the regulatory list is not exhaustive. In the alternative, they also recommended supplementing this section with additional categories that may extend opportunities for such acquisitions to Tribal governments that may be otherwise excluded under the current scheme.

• *Response:* The regulations are intended to guide the applicant and the agency in determining which fractional interests in lands are eligible for trust acquisition. The list is not intended to be exhaustive, and the enumerated categories covers the range of applicable conditions authorizing such acquisitions. Therefore, the Department has changed the language prior to the list of circumstances from ''only if'' to ''including when.''

§ 151.7 Is Tribal consent required for nonmember acquisitions?

Comment: Many Tribes requested that the ''consent provision'' be clarified to state that it does not apply to Tribes with shared jurisdictions.

• *Response:* The Department understands that in certain instances Congress may have overridden the consent requirement provided for in the rule; however, the Department views the consent requirement as consistent with the IRA in that it supports Tribal self-governance.

§ 151.8 What documentation is included in a trust acquisition package?

Comment: Most comments expressed overwhelming support for the new 120-day time frame for decision, although many commenting Tribes also suggested that the regulations include a provision that an application will be deemed approved if the Secretary fails to meet this deadline or allow Tribe's recourse if a decision is not issued within the prescribed time frame.

• *Response:* The 120-day time frame for a decision is not intended to establish an independent cause of action but instead ensures the agency issues a decision on a completed application as efficiently and expeditiously as practicable. Because there are certain prerequisites that must be completed prior to acquiring land into trust (*e.g.,* environmental analysis under NEPA) a deemed approved provision would be inappropriate.

Comment: A few Tribes commented that the changes to proposed § 151.8(a)(5) impose no deadline on the Department to prepare a PTO to render the application ''complete'', which subsequently they assert makes the 120-day time frame illusory. To address this, they suggested that the proposed regulations be changed to permit a Tribe to prepare the PTO and require the Solicitor's Office to review and approve it within 30 days of receipt from the Tribe.

• *Response:* The FTT Handbook will include a time frame for completing the PTO but the Department notes it is outside BIA's authority to impose deadlines on other Departmental bureaus or offices.

Comment: Several Tribes also noted that the proposed changes to § 151.8(a)(4) impose no deadline on the Department to conduct a public review process under the National Environmental Policy Act (NEPA) and issue a final Environmental Assessment (EA) or an Environmental Impact Statement (EIS) document to render an application ''complete.'' They suggested that where no categorical exclusion is issued, the proposed regulation should be changed to require the Department to name the applicant Tribe as a cooperating agency in a NEPA public review process; begin that process no later than 30 days after the Department receives a specific request from the Tribe; and conclude any EA process within six months and any EIS process within 12 months.

• *Response:* Because each application contains different circumstances, the time for completing each NEPA document is different and cannot be mandated. The Secretary will grant Tribal requests for cooperating agency status where applicable and appropriate.

Comment: One Tribe suggested that the Department consider adding additional clarification to the proposed regulations concerning the applicant's required contribution to the Secretary's environmental review under proposed § 151.8(a)(4).

• *Response:* As written, this section maintains flexibility regarding the type of information the applicant must submit to comply with NEPA.

Comment: One Tribe requested that the Department make clear that ''many of the application requirements may be carried out simultaneously and need not proceed in sequential order as they are listed in the proposed rule.''

• *Response:* The FTT Handbook will specify the process for consideration of a Tribe's application. The Department notes that the fee-to-trust process is not always the same for each parcel. As described in § 151.8(b), the Secretary will issue a decision on an application ''within 120 calendar days after issuance of the notice of a complete acquisition package.''

Comment: Several Tribes noted that under proposed § 151.8(a)(3)(i), there is a requirement for a Tribe to ''include a statement of the estate to be acquired,'' but that this is not also mentioned for metes and bounds and survey descriptions.

• *Response:* The requirement for a Tribe to ''include a statement of the estate to be acquired'' has been added to the metes and bounds survey description in the renumbered § 151.8(a)(4)(ii).

Comment: One Tribe noted that requests for additional information under proposed § 151.8(a)(8) that delay the acceptance of an application as complete may greatly extend the timeline. The Tribe suggests that proposed § 151.8(a)(8) should be adjusted to read as follows: ''Any additional information or action reasonably requested by the Secretary in writing if warranted by unique and unusual circumstances in the specific application.''

• *Response:* The Department notes the section to which the Tribe refers now appears at proposed § 151.8(a)(9). The Department declines to adopt the proposal. This section maintains flexibility to address the circumstances of each application and the need to ensure that the Secretary's final decision is legally sufficient.

Comment: The Tribe also suggested that the Department maintain metrics following the final adoption of the

proposed rule, showing the entire timeline from original submission to approval (or denial) and examining whether significant delays occur before acceptance.

• *Response:* The Department maintains the official records of each application, including evidence of the timeline from original submission to decision. This information allows examination of delays prior to acceptance.

Comment: A Tribal consortium requested more flexibility in environmental issues and suggested that Tribes be given the option to assume liability for environmental issues that remain on land being taken into trust.

• *Response:* In certain instances, the Department can accept land into trust with an encumbrance, lien, or infirmity when the Tribe agrees to enter into an indemnification agreement in favor of the BIA. While not expressly stated in the regulations, the ability exists with the Department on a case-by-case basis.

Comment: Some commenting Tribes noted concerns over fee-to-trust acquisitions for gaming, suggesting that such applications be denied when gaming on the land in question would be prohibited by IGRA.

• *Response:* An application to take land in trust specifically for gaming purposes cannot proceed for gaming purposes if the land is determined to be ineligible for gaming pursuant to IGRA.

§ 151.9 How will the Secretary evaluate a request involving land within the boundaries of an Indian reservation?

Comment: Several Tribes suggested that the Department remove ''any requirement to show the BIA has the capacity to carry out its responsibilities if the land was placed in trust'' proposed § 151.9(a)(4)).

• *Response:* Because trust land acquisitions are discretionary, the Secretary must demonstrate support for their decision in the record. To ensure a complete evaluation, the Secretary will consider whether the BIA is equipped to fulfill its trust responsibilities for land acquired in trust and to provide the Federal programs and services that it makes available on trust lands.

Comment: One Tribe commented that the Department should clarify what is meant by ''great weight'' under § 151.9(b).

• *Response:* Section 151.9(b) acknowledges that certain purposes for land acquisition are particularly salient in light of the purposes of the IRA and the Secretary's land acquisition policy as articulated in § 151.3. The Secretary will apply great weight to applications pursing these listed purposes by recognizing, and appropriately considering, the particular importance of acquiring land for these purposes. The Secretary would thus need to take the importance of the proposed acquisition into consideration in reviewing a request and would need to address this in any disapproval decision.

Comment: One Tribe commented that while it welcomes a presumption in favor of approval for requests for acquisition of land within and contiguous to reservation boundaries, the proposed presumption should be clarified.

• *Response:* The Department has revised § 151.9(c) to clarify that the Secretary presumes that an acquisition within the boundaries of a reservation will: (1) further at least one of the Tribal interests described in § 151.9(b); (2) that adverse impacts to local governments' regulatory jurisdiction, real property taxes, and special assessments will be minimal; and (3) that the application should therefore be approved. The revised language clarifies which factors the presumption applies to and when the Secretary presumes an acquisition will be approved.

Comment: One Tribe commented that if the effects on a State or local government's regulatory jurisdiction, real property taxes, and special assessments will be minimal, then the burden shifts to those opposing the acquisition to either prove that the acquisition does not meet one of the criteria listed at § 151.9(b) or that the acquisition would adversely impact State or local governments.

• *Response:* The Department has revised § 151.9(d) to include a comment period for State and local governments to submit written comments to rebut the presumption that the acquisition will have minimal adverse impacts to regulatory jurisdiction, real property taxes and special assessments.

Comment: One Tribe believes the policies afforded great weight under proposed § 151.9(b) may unduly limit the needs and uses for which Tribes may acquire land under the IRA. The Tribe suggests adding the following to the IRA's purpose: ''for the purpose of providing land for the Indians,'' along with the prior listing of ''housing'' and ''economic development'' needs. The Tribe also suggests a rewording of the ''no change in use'' category.

• *Response:* The regulation does not limit the needs or uses for which a Tribe may acquire land within the boundaries of its reservation. The Department intended that § 151.9(b) be broad by including the broad purpose of ''facilitating self-determination.'' Section 151.9(b) states that the Secretary will give great weight to acquisitions that ''will further Tribal interests by establishing a Tribal land base or protecting Tribal homelands.'' Establishing a Tribal land base or protecting Tribal homelands is equivalent to the IRA's purpose of ''providing land for Indians.'' Section 151.9(b) also includes housing and economic development as a purpose.

Comment: One Tribe strongly suggested that proposed § 151.9(a)(3) be removed entirely, asserting that it second-guesses the Tribal applicant's self-governance decisions and is not necessary under NEPA. Another Tribe suggested that it is unclear what must be submitted to comply with proposed § 151.9(a)(3), specifically concerning NEPA compliance implications referenced in the ''Summary of Changes'' in the **Federal Register**. Several Tribes also suggested edits to proposed § 151.9(b) that account for Tribes with rights tied to executive orders or other Federal laws.

• *Response:* It is important for the Secretary to understand the current proposed use of the land to be acquired. The use of the land will dictate the level of environmental review that is appropriate to comply with the Department's obligations under NEPA. NEPA requires Federal agencies to examine the environmental effects of proposed actions before making a decision. The Department's NEPA process requires the BIA to examine environmental and related social and economic effects. In some instances, they also require the Department to seek public comment. We do not agree that this undermines Tribal self-governance. In conducting an analysis under NEPA, the Department is not rejecting a Tribes reason for wanting the Department to accept the land in trust. But rather, it is reviewing the impacts of such an acquisition.

Comment: Several counties, towns, and States expressed opposition to proposed § 151.9, specifically expressing concern over how notice is afforded to States and local governments. Collectively, they asserted that: (1) it is not clear what will be included in the notice, (2) whether the notice is merely a courtesy, given the presumption to acquire on-reservation lands, or whether they will be given an opportunity to comment; and (3) whether the new presumptions for acquiring land, when coupled with the removal of the consideration of jurisdictional problems, potential conflicts of land use, the removal of considering the effects on a State and

local government's regulatory jurisdiction, real property taxes, and special assessments, and the expressed needs of Tribal applicants for additional land, are lawful. One commenter also suggested that the term ''State and local governments *with regulatory jurisdiction over the land to be acquired*'' could result in a lack of any notice where jurisdiction is complicated or debatable, because the Department makes its own interpretation on that question.

• *Response:* Section 151.9(d) has been revised to solicit comments from State and local governments to rebut the presumption that an acquisition within the reservation boundary will have minimal adverse impacts to regulatory jurisdiction, real property taxes, and special assessments. The Department also notes and confirms that any comments received on an application, even if not requested, will be considered as part of the overall decision-making process. While not included in the regulation, the BIA will publish guidance in the FTT Handbook outlining how notice will be provided.

Comment: Several Tribes commented that the Department should clarify in the preamble or the final rule that ''State and local governments only have regulatory jurisdiction over on-reservation fee land *owned by non-Indians.*'' One Tribe also urged the Department to not allow State and local comments on their own to overcome ''a decision to approve a trust acquisition.''

• *Response:* The scope of State and local jurisdiction over fee lands within the boundaries of Indian reservations is outside the scope of these regulations and, for that reason, the Department declines to adopt the recommendation. With respect to the role of State and local comments, the decision to approve or disapprove an application will be based on whether the application complies with the regulatory criteria and other applicable statutory or regulatory requirements. The Department will consider comments submitted on pending applications.

§ 151.10 How will the Secretary evaluate a request involving land contiguous to the boundaries of an Indian reservation?

Comment: One Tribe suggested that ''great weight'' should be afforded contiguous acquisitions ''within the original boundary of the Tribal applicant's reservation.''

• *Response:* The Department understands the policy reasons for the requested change. However, the process for determining the ''original boundary'' could add significant complexity and time to the acquisition process. Because the intent behind this rulemaking is to provide a more efficient process, the Department declines to make this change.

Comment: Another Tribe suggested the Department should give greater weight to the presumptions in proposed § 151.10(c) and (d) when evaluating State and local comments for impacts to their regulatory jurisdiction, real property taxes, and special assessments.

• *Response:* The final rule already provides for a presumption in favor of approval in § 151.10(c) and a presumption that the Tribe will benefit from the acquisition in § 151.10(d). No additional weight is necessary to facilitate the intent of the rulemaking.

Comment: A Tribe also suggested that the Department should clarify that State and local comments alone are insufficient to ''overcome a decision to approve a trust acquisition''.

• *Response:* The Department agrees that State and local governments do not have veto authority over the decisions to acquire land in trust contemplated by this part. The Secretary will consider comments received on pending applications consistent with this part.

Comment: This same Tribe also suggested technical edits to harmonize proposed Section 151.10(b) with the proposed changes to § 151.3(b)(3).

• *Response:* The final rule was revised to harmonize the purposes for acquiring land into trust listed in §§ 151.10(b) and 151.3(b)(3).

Comment: Another Tribe stated that the Department should not even solicit State and local government comments, which they assert is consistent with the process described for on-reservation acquisitions.

• *Response:* It is appropriate for the Secretary to consider comments received from State and local governments for acquisitions evaluated under this part. The Department also notes that the final rule has been revised to provide an opportunity for State and local governments to provide comments for acquisition within reservation boundaries. The Secretary's consideration of comments received on pending applications ensures they have a complete view of the complexities surrounding an acquisition. It also provides an opportunity for the applicant to address concerns raised as part of the process, thereby reducing the likelihood of legal challenges when those concerns are considered prior to the acquisition.

Comment: One Tribe suggested that when the Department receives and reviews State and local government comments, it should be both mindful and give great weight to the fact that the local Tribe and the Department ''are already providing services to the contiguous parcel.''

• *Response:* As with the existing regulation, the Secretary will consider all factors relevant to understanding the potential impact on regulatory jurisdiction, real property taxes, special assessment and services to a particular parcel as identified by the commenting State or local government. While the final rule does not give a specific weight to comments and concerns raised by local governments or States, it is not true that it gives them no weight. The Secretary will consider any and all comments and concerns raised by local communities or States in making a decision to acquire land in trust for a Tribe.

Comment: One Tribe opposed the proposed changes to § 151.10(a)(3), stating that allowing the Secretary to evaluate the purposes for which a Tribe will use its own land within its own reservation is inconsistent with self-determination policy.

• *Response:* The Secretary needs to know the purpose for which the land is to be used to determine the appropriate level of environmental review to comply with NEPA. NEPA requires Federal agencies to examine the environmental effects of proposed actions before making a decision. The Department's NEPA process requires the BIA to examine environmental and related social and economic effects. In some instances, they also require the Department to seek public comment. We do not agree that this undermines Tribal self-governance. In conducting an analysis under NEPA, the Department is not rejecting a Tribes reason for wanting the Department to accept the land in trust. But rather, it is reviewing the impacts of such an acquisition.

Comment: Additionally, the same Tribe opposed proposed § 151.10(a)(4), stating that it is ''outdated and perpetuates a callous and abusive Federal policy discarded decades ago because of its moral bankruptcy.''

• *Response:* Acquisitions under section 5 of the IRA are discretionary and have been subject to Federal resource considerations since the IRA was first enacted. When the United States takes land into trust, it exercises trust responsibilities as to those lands and extends Federal programs and services to those lands. Therefore, in exercising her discretion, the Secretary must decide whether BIA is equipped to assume these fiduciary obligations and discharge the additional responsibilities associated with the acquisition. Section 151.10(a)(4) is a legitimate consideration

as part of the acquisition process Department declines to make the suggested revision.

Comment: Another Tribe submitted comments seeking a specific tax exemption under the regulations to address a longstanding fee-to-trust issue they have been dealing with.

• *Response:* The purpose of the regulations is to detail the process the Secretary will use in acquiring lands in trust. It is beyond the scope of these regulations to grant substantive rights without statutory authority.

Comment: Another Tribe requested a time frame for when BIA must provide the Tribal applicant a copy of any comments received from State or local governments (suggesting a 10-day window to provide such copies to the Tribal applicant). Another Tribe requested that other affected Tribes be included in the notice for comment sent to State and local governments.

• *Response:* The BIA is in the process of updating the FTT Handbook to reflect the changes made by this final rule. The FTT Handbook is a more appropriate location to include any intermediate time frames designed to ensure compliance with the broader 120-day time frame to issue a decision on a complete acquisition package.

Comment: One Tribe suggested a new category of ''adjacent'' lands be added to the ''contiguous'' acquisition analysis to account for that category of lands that are currently ''off-reservation'' lands, but that should be afforded greater weight as lands that are ''closely connected or intrinsically linked to lands held in trust'' for the applicant Tribe.

• *Response:* The Department acknowledges that lands adjacent to a reservation may be closely connected to or linked to lands held in trust; however, the definition of contiguous provides sufficient clarity to determine the appropriate criteria to use to evaluate the application. The Department also notes that establishing a standard for what constitutes ''adjacent'' would be difficult considering the differences in geography between Tribal land holdings. Applying such a standard would also add a layer of complexity and time to the fee-to-trust process, which would undercut the purpose of this rulemaking to make the process more efficient.

Comment: Another Tribe suggested that the Department clarify that ''contiguous'' acquisitions are also ''contiguous'' for gaming purposes under 25 CFR 292.2 (the Tribe offered draft edits for consideration).

• *Response:* The definition of contiguous is consistent with the part 292 definition, and in general should result in a similar analysis; however, part 151 and part 292 determinations are separate and rely on different statutory authority.

Comment: Several Tribes also suggested edits to proposed § 151.10(b) that account for Tribes with rights tied to executive orders or other Federal laws.

• *Response:* The final rule does not relieve the Department of its obligations to adhere to any relevant executive order or any other Federal laws. The final rule provides sufficient clarity, and thus no additional language is necessary.

Comment: One Tribe commented that while it welcomed a presumption in favor of approval for requests for acquisition of land within and contiguous to reservation boundaries, the proposed presumption in §§ 151.9 and 151.10 should be further clarified as they believe it is not clear which of the criteria in these sections an applicant Tribe would no longer need to affirmatively prove, and what an opposing party would need to produce or persuade to overcome the presumption. The Tribe consequently proposed the following change to proposed § 151.10: ''When reviewing a Tribe's request for land within the boundaries of an Indian reservation, the Secretary presumes that the acquisition will further the Tribal interests described above in subsection (b), and adverse impacts to local governments' regulatory jurisdiction, real property taxes, and special assessments will be minimal, therefore the application should be approved.''

• *Response:* This language has been incorporated into §§ 151.9(c), 151.10(c), and 151.12(c).

Comment: Several State and local governments opposed the proposed changes in § 151.10 and expressed concern about whether the new presumptions for acquiring land, when coupled with the removal of the consideration of jurisdictional problems, potential conflicts of land use, and the expressed needs of Tribal applicants for additional land, are lawful. Commenters' specific legal concerns include that ''BIA will also not consider as a factor possible jurisdictional and land use conflicts that may arise between local governments and the Tribes'' which may ''lead to costly and time-consuming litigation for both Tribes and local governments on jurisdictional and land use issues''; that the removal of the consideration of jurisdictional problems ''would have the effect of obfuscating the legitimate function and role of county governments, which are responsible for land use planning and the provision of important local services''; and would generate ''conflicts that go straight to the heart of the considerations Congress intended the Department to weight in exercising its judgment under the Indian Reorganization Act of 1934 (IRA) to approve or deny a request to take land into trust.''

• *Response:* We disagree with the premise that including presumptions would make the acquisitions unlawful. Congress has provided the Secretary with the authority to acquire land into trust for Tribes. *See* Act of June 18, 1934, Public Law 73–383, 48 Stat. 984 (codified as amended at 25 U.S.C. 5101 through 5129). Congress enacted the IRA to ''establish machinery whereby Indian Tribes would be able to assume a greater degree of self-government, both politically and economically.'' *Morton* v. *Mancari,* 417 U.S. 535, 542 (1972). Restoration of Tribal homelands through trust acquisition is pivotal to achieving the Tribal self-government, self-determination, and economic goals of the statute. *See, e.g., Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians* v. *Patchak,* 567 U.S. 209, 226 (2012) (describing section 5 as the ''capstone'' of the Indian Reorganization Act's land provisions). The addition of a presumption in favor of acquisitions within reservation boundaries is thus consistent with the goals of the IRA of Tribal land restoration and consolidation. The statute does not include any presumption; however, it is within the Secretary's discretion to include one that supports the overall goals of the statute. Commentors, including State and local governments, may submit comments and evidence for the Secretary's consideration seeking to rebut the presumption. Upon receipt of a comment from any interested party, including a State or local government, the Department would then be positioned to consider any jurisdictional and land use conflicts that may arise, to consider function and role of county governments as they relate to a putative acquisition, and to consider all viewpoints in exercising its delegated authority under the Indian Reorganization Act.

Comment: They also expressed concerns about the 30-day comment period being too short to meaningfully comment on acquisitions, as well as the need for criteria defining how notice will be provided to State and local governments.

• *Response:* We disagree. In the Department's experience, 30 days is sufficient time to provide comments on pending applications. The 30-day

comment period was codified in the 1995 part 151 regulations. The preamble to that regulation noted that the timeframe was based on BIA's past experience with informal consultation. *See* 60 FR 32874, 32877 (June 23, 1995). The Department continues to believe, based on its experience, that 30 days is sufficient. Indeed, the information requested by the Secretary is more likely retrievable within 30 days using current information technology and electronic means.

Comment: Separately, several of these commenters noted that State and local comments are not afforded ''great weight'' and assert that they should be.

• *Response:* The Department considers all comments but declines to accept the proposal which would specify the weight that must be given to these comments. Through the IRA and other Federal statutes authorizing trust acquisitions, Congress has authorized the Secretary to acquire land in trust for Indian Tribes and individual Indians, subject to the requirements set forth in the statutes. The regulations contemplate that the Secretary will consider comments submitted by State and local governments on pending applications as part of the decision-making process. The Department declines to expand or elevate the role of State or local governments in this process.

Comment: Additionally, a State Attorney General proposed language for § 151.10(d) that prescribes a process for providing notice to State and local governments and what that notice should include.

• *Response:* The specific manner for providing notice and seeking comment from third parties is better suited to internal guidance documents such as the BIA's Fee-To-Trust Handbook. The process proposed by the commenter would have the effect of slowing down the processing of applications and greatly expand the role of States and municipalities far beyond what is in the current regulations. The Department therefore declines to make the suggested revision in the proposed regulation. The Department will consider this proposed language as internal guidance documents are revised, including the Fee-To-Trust Handbook.

Comment: One State commented that they believed the ''presumption that contiguous lands be approved'' is unclear, *i.e.,* there is ''no description of the weight of the presumption.'' The State also noted that it is unclear whether the presumption is rebuttable and—if so—how is it rebutted?

• *Response:* Section 151.10(c) clarifies that the Secretary will presume that the acquisition ''will further the Tribal interests described in paragraph (b) of this section, and adverse impacts to local governments' regulatory jurisdiction, real property taxes, and special assessments will be minimal, therefore the application should be approved.'' The revised language clarifies which factors the presumption applies to and when the Secretary presumes an acquisition will be approved. Presumptions are rebuttable by providing evidence that does more than simply support an alternative conclusion. Commentors, including State and local governments, may submit comments and evidence for the Secretary's consideration seeking to rebut the presumption. The Secretary will consider such evidence in making a decision on the Tribe's application.

§ 151.11 How will the Secretary evaluate a request involving land outside of and noncontiguous to the boundaries of an Indian reservation?

Comment: One Tribe suggested that the Department give ''great weight'' to off-reservation acquisitions ''within the aboriginal or 'ceded' lands of the Tribal applicant.'' One Tribe proposed that the Secretary consider the community benefits and give the greatest weight to the interests and concerns of Tribes with aboriginal ties to the proposed location.''

• *Response:* Determining the location and extent of a Tribe's aboriginal lands often requires a lengthy review of applicable law and fact. Such a change is inconsistent with the intent to streamline the fee-to-trust process.

Comment: Several Tribes suggested that local Tribal governments receive notice of a Tribe's application and be given an opportunity to provide comments.

• *Response:* Given the differences in geography between all Tribal land holdings, it would be difficult to establish a national regulatory standard that defines ''local Tribal governments'' in a consistent and equitable manner, therefore the Department declines to define ''local Tribal governments'' for the purpose of notice and comment. Tribes may, however, submit comments to the Department on an application that will be considered by the Department as part of the application review process.

Comment: A Tribal consortium suggested that ''given Alaska's unique history, land acquisitions within Alaska Native Village Statistical Areas should be treated as 'on-reservation acquisitions' and not off-reservation acquisitions.''

• *Response:* Initial trust acquisitions in Alaska will be analyzed under § 151.12 if they are the first trust acquisition for an Alaska Tribe. Because very little land is held in trust for Alaska Tribes, this likely will be the standard for almost all initial acquisitions for Alaska Tribes. After the initial acquisition, however, Alaska acquisitions will be evaluated using the criteria articulated in this final rule. This supports a uniform application of the land acquisition process in Alaska and the lower 48 States.

Comment: One Tribe suggested that the Department clarify that State and local government comments alone are insufficient to overcome a decision to approve a trust acquisition.

• *Response:* State and local comments opposing an off-reservation acquisition do not serve as a veto.

Comment: Several Tribes expressed support for retaining the 30-day comment period, requiring that those comments be provided to Tribal governments for rebuttal, and that States and local governments be limited to commenting only on impacts to their regulatory jurisdiction, real property taxes, and special assessments. One Tribe requested that a timeframe be included for when BIA must provide a Tribal applicant with a copy of any comments received from State or local governments (suggesting a 10-day window).

• *Response:* We decline to limit the subject areas any party may comment on regarding a specific application. We also believe that timelines for providing a Tribal applicant a copy of any comments received are better addressed in the BIA Fee-To-Trust Handbook.

Comment: Several Tribes suggested edits to proposed § 151.11(b) that account for Tribes with rights tied to Executive orders or other Federal laws.

• *Response:* The final rule does not relieve the Department of its obligations to adhere to any relevant Executive order or any other Federal laws.

Comment: Several State, local and Tribal governments opposed the removal of the current § 151.11(b), which they assert increases scrutiny the further from a reservation the land is while giving greater weight to State and local government concerns. In a related comment, one Tribe suggested adding a presumption of approval for land located outside of and noncontiguous to an Indian reservation.

• *Response:* In enacting the IRA, Congress did not limit trust acquisitions to within a certain distance from a Tribe's reservation. The Department recognizes, however, that off-reservation acquisitions may present different issues than on-reservation or contiguous acquisitions. The existing § 151.11(b)

unnecessarily applies heightened scrutiny to off-reservation acquisitions based on distance alone. There are numerous factors other than distance from a Tribe's existing reservation that should be considered as part of an off-reservation acquisition. Therefore, the Secretary will not presume that an off-reservation application will be approved but will consider the location of the land along with the other criteria in § 151.11 before issuing a decision. In addition, this sentence was edited for clarity and succinctness: ''[t]he Secretary presumes that the Tribal community will benefit from the acquisition without regard to distance of the land from a Tribe's reservation boundaries or trust lands,'' to ''[t]he Secretary presumes that the Tribe will benefit from the acquisition.''

Comment: Several commenters found the proposed language ''in reviewing such comments, the Secretary will consider the location of the land'' in § 151.11(c) vague. A local county stated that ''that there are far greater considerations than location to consider, such as the financial impact on local governments, local taxing authorities and local taxpayers as lands are proposed for acquisition as trust lands.'' A county opposed the purported removal of consideration of ''jurisdiction problems and potential conflicts of land use'' from consideration.

• *Response:* The sentence was edited for clarity to: ''[i]n reviewing such comments, the Secretary will consider the location of the land and potential conflicts of land use.'' The Secretary will consider potential conflicts of land use for proposed trust acquisition located outside of and non-contiguous to a Tribe's reservation or trust land. Consideration of an acquisition's potential impact on regulatory jurisdiction, real property taxes, and special assessments is already included in this section. Consideration of ''jurisdiction problems and potential conflicts of land use'' is retained for §§ 151.11(c) and 151.12(c).

Comment: One non-Tribal commenter suggested a gaming carve-out, which would apply the current § 151.11(b) equivalent to acquisitions where gaming will be conducted. There are concerns from non-Tribal entities that Tribes can conceivably acquire land across the United States, and these concerns are also expressed as gaming concerns in certain comments.

• *Response:* This final rule applies to all fee-to-trust acquisitions. Where a fee-to-trust application is for the purpose of conducting Indian gaming, a determination whether the land is eligible for gaming is required by the IGRA and its implementing regulations at 25 CFR part 292. Thus, there is no need for this rule to address gaming matters.

Comment: Several commenting State and local governments oppose the removal of the requirement that Tribal applicants submit business plans for review, suggesting it would eliminate a source of information used to evaluate local impacts of the putative acquisition.

• *Response:* Requiring a Tribal applicant to disclose its business plan is inconsistent with Tribal self-determination. Tribes and State and local governments may share information to evaluate local impacts even without a requirement and Tribal applicants and State and local governments are encouraged to discuss issues of common concern.

Comment: They also expressed concerns that the 30-day comment period was too short to provide meaningful comments, as well as the need for criteria defining how notice will be provided to State and local governments.

• *Response:* In the Department's experience 30 days is sufficient time to provide the type of comments that will inform the Secretary's decision. The 30-day comment period was codified in the 1995 part 151 regulations. The preamble to that regulation noted that the timeframe was based on BIA's past experience with informal consultation. *See* 60 FR 32874, 32877 (June 23, 1995). The Department continues to believe, based on its experience, that 30 days is sufficient. Indeed, the information requested by the Secretary is more likely retrievable within 30 days using current electronic means.

Comment: A State Attorney General suggested revisions for proposed § 151.11(d) that would prescribe a process for providing notice to State and local governments and what that notice would include.

• *Response:* The specific manner for providing notice and seeking comment from third parties is better suited to internal guidance documents such as the Fee-To-Trust Handbook. The regulations provide a timeframe in which States and local governments can submit comments on an application. Therefore, we do not see why it would be necessary to put a deadline on when the BIA sends notification of an application to States or local governments. The Department therefore declines to make the suggested revision.

Comment: A town expressed skepticism regarding the blanket presumption of community benefits for off-reservation acquisitions and noted that it is unclear how this presumption can be rebutted.

• *Response:* Where a Tribe takes land into trust off-reservation, that land nearly always serves an important economic, cultural, self-determination, or sovereignty purpose that supports Tribal welfare. Tribal governments are rational actors that make acquisition decisions carefully based on available resources, planning, and purposes valued by the Tribe.

Comment: A local jurisdiction commented that while the proposed rule would give ''great weight'' to Tribal concerns, it would give no weight to the comments or concerns of the local community or to the State in the decision-making process. Several commenters noted that State and local comments are not afforded ''great weight'' and asserted that they should be.

• *Response:* Through the IRA, Congress has authorized the Secretary to acquire land in trust for Tribes and individual Indians, subject to the requirements set forth in the statute. The regulations contemplate that the Secretary will consider comments submitted by State and local governments on pending applications as part of the decision-making process. The Department declines to expand or elevate the role of State or local governments in this process coequal to Tribal concerns because the IRA sets forth an explicit ''purpose of providing land for Indians'' and includes no such purpose for State or local governments.

Comment: One Tribe recommend that Tribes with dispersed trust lands be accommodated by adding a provision that if the proposed acquisition is within five miles of a Tribe's existing trust land, that the application will be considered a contiguous application.

• *Response:* It would be difficult to establish a national regulatory standard to accommodate all Tribes with dispersed lands considering the differences in geography between all Tribal land holdings.

§ 151.12 How will the Secretary evaluate a request involving land for an initial Indian acquisition?

Comment: Most commenting Tribes expressed general support for the proposed changes to § 151.12. One Tribe appreciated the addition of ''economic development and Indian housing'' and ''self-determination,'' as reflected in the proposed changes to § 151.12(b). They also supported the ''presumption of community benefits in § 151.12.'' However, some Tribes suggested that the Department's presumption of

community benefits should only apply where the initial acquisition is within the Tribal applicant's ''aboriginal territory.'' Another Tribe would like this section expanded beyond an ''initial Indian acquisition'' to include acquisitions for ''a modest or minimal homeland.''

• *Response:* Determining the location and extent of a Tribe's aboriginal lands often requires a lengthy review of applicable law and fact. Such a change is inconsistent with the intent to streamline the fee-to-trust process.

Comment: One Tribe suggested that the Department clarify that the receipt of State and local comments alone is insufficient to ''overcome a decision to approve a trust acquisition.'' Tribes also expressed support for retaining the 30-day comment period, requiring that those comments be provided to Tribes for rebuttal, and that States and local governments be limited to commenting only on impacts to their regulatory jurisdiction, real property taxes, and special assessments.

• *Response:* In the Department's experience, 30 days is adequate for the purposes of implementing the IRA. The solicitation of comments from State and local governments is to assist the Secretary in assessing the regulatory criteria. The Department agrees that State and local governments do not have veto authority over the decisions to acquire land in trust contemplated by this part. The Secretary will consider comments received on pending applications consistent with this part.

Comment: Several Tribes suggested edits to proposed § 151.12(b) that account for Tribes with rights tied to executive orders or other Federal laws.

• *Response:* The final rule does not relieve the Department of its obligations to adhere to any relevant executive order or any other Federal laws.

Comment: One Tribe provided edits it believed would better harmonize proposed § 151.12(b) with proposed § 151.3(b)(3).

• *Response:* Edits have been incorporated to harmonize the purposes for accepting land into trust listed in §§ 151.12(b) and 151.3(b)(3).

Comment: Several State and local governments expressed concerns about the 30-day comment period being too short to allow them to provide meaningful comments, as well as the need for criteria defining how notice will be provided to State and local governments. Separately, several commenters noted that State and local comments are not afforded ''great weight'' and asserted that they should be.

• *Response:* In the Department's experience, 30 days is sufficient time to provide the type of comments that will inform the Secretary's decision. The 30-day comment period was codified in the 1995 part 151 regulations. The preamble to that regulation noted that the timeframe was based on BIA's past experience. *See* 60 FR 32874, 32877 (June 23, 1995). The Department continues to believe, based on its experience, that 30 days is sufficient. Indeed, the information requested by the Secretary is more likely retrievable within 30 days using current electronic means.

Through the IRA and other Federal statutes authorizing trust acquisitions, Congress has authorized the Secretary to acquire land in trust for Tribes and individual Indians, subject to the requirements set forth in the statutes. The regulations contemplate that the Secretary will consider comments submitted by State and local governments on pending applications as part of the decision-making process. The Department declines to expand or elevate the role of State or local governments in this process.

§ 151.13 How will the Secretary act on requests?

Comment: One Tribe requested that the definition of interested party also match the definition of interested party in the part 2 regulations. They also requested that interested parties be required to obtain a bond.

• *Response:* The Department declines the proposed additions. The part 151 *interested party* definition closely resembles proposed 25 CFR part 2 regulation, wherein interested party is defined as ''a person or entity whose legally protected interests are adversely affected by the decision on appeal or may be adversely affected by the decision of the reviewing official.'' *See Proposed Rule, Appeals from Administrative Actions,* 87 FR 73688 (Dec. 1, 2022). The part 2 regulation further defines those entities adversely affected by a decision. As set forth above, for purposes of part 151, it is not necessary for an interested party to be adversely affected but instead that they have a legally protected interest affected by a decision. We note that it is possible for a party to satisfy the definition of *Interested party* yet have no right to appeal a decision *i.e.,* have no standing to do so. The Department also notes that providing notice to a party does not confer legal standing to bring a challenge. Bonding requirements related to administrative appeals under part 2 is outside the scope of these regulations.

Comment: Several Tribes expressed concern about the definition of *interested party* and one expressed concern about the standing requirements for interested parties, suggesting that purely economic interests should not be sufficient.

• *Response:* As explained herein, the definition of *interested party* tracks the definition of ''interested party'' in part 2—the regulations which govern the appeals process, except that for part 151 purposes, a person or entity may be an *interested party* and thus entitled to notice of the decision if they make themselves known in writing to the BIA in advance of the decision, even if they are not ''adversely affected'' by a potential decision. We note that it is possible for a party to satisfy the definition of *interested party* in part 151 yet have no right to appeal a decision *i.e.,* have no standing to do so. The Department also notes that providing notice to a party does not confer legal standing to bring a challenge. The standing requirements to pursue an administrative appeal are outside the scope of these regulations.

Comment: One Tribe and an individual commenter both requested that paragraph (d) be removed.

Response: The Department declines to remove § 151.13(d). A decision made by a BIA Regional Director or other BIA official does not represent the consummation of the agency's decision-making process until either administrative remedies have been exhausted or the appeal period has expired. Furthermore, eliminating § 151.13(d) would require the Assistant Secretary—Indian Affairs to sign each fee-to-trust decision, a responsibility that has been delegated to BIA regional directors to increase efficiency in the process. The majority of fee-to-trust decisions are not challenged, and if the responsibility to decide every application rested on Assistant Secretary—Indian Affairs, it would put a burden on the process and create further backlog of applications.

Comment: One Tribe requested that digital publication be accepted for notification along with written publication in § 151.13(d)(2)(iii).

• *Response:* The final rule includes the requirement that written notice be sent to ensure receipt. The final rule does not foreclose using email as an additional form of notification. The Fee-to-Trust Handbook will include discussion of instances when email notice can be provided as a courtesy. The Department declines to digitally publish notice of a decision and the right of interested parties to file an appeal in addition to written

notification in the local newspaper. The Department believes that digital publication on the BIA website is unnecessary given that written notice will be provided. Under § 151.13(d)(2)(ii), the Department provides direct written notice of the decision and the opportunity to appeal to interested parties who have made themselves known in writing to the BIA in advance of the decision and State and local governments with regulatory jurisdiction over the land. The Department believes that these direct notices in addition to publication in the local newspaper to notify other potentially interested parties is sufficient notice.

Comment: One Tribal commenter expressed strong support for the provision in § 151.13(c)(iii) to immediately acquire land into trust status.

• *Response:* Per these regulations, land will be immediately acquired into trust when the requirements of part 151 have been met. If the decision to take land into trust is made by a BIA official, then the appeal period must expire, or administrative remedies must be exhausted before the land is accepted into trust.

Comment: An association of counties expressed concern that the proposed changes to § 151.13 would limit their ability to fully participate in the comment process.

• *Response:* Under the final rule counties can participate in the process through submission of comments.

§ 151.14 How will the Secretary review title?

Comment: One Tribe commented that proposed § 151.14, as written, seems to require applicants to submit title evidence only after ''the Secretary approves a request for the acquisition of land'' and requested further clarification.

• *Response:* Pursuant to § 151.8(a)(6), title evidence as described under § 151.14 must be submitted as part of an acquisition package in order for the Department to consider the acquisition package complete and ready for review. Additionally, pursuant to § 151.8(a)(6)(i), an acquisition package is not complete until the Secretary completes a PTO based on the title evidence submitted. The Department amended § 151.14 to reflect that title evidence must be submitted as part of the complete acquisition package described in § 151.8.

Comment: Two Tribes requested that DOI clarify the standards for title evidence. One Tribe specifical asked that DOI include reference to Department of Justice (DOJ) title standards.

• *Response:* The Department understands these requests to be seeking confirmation that the DOJ title standards will be included in § 151.14. Section 151.14(a)(3) aligns with these requests because § 151.14(a)(3) includes reference to DOJ's title standards.

Comment: One Tribe requested that PTOs be shared directly with the applicant Tribe. Additionally, the Tribe requested an additional change to proposed § 151.14 to prevent continued practices that do not align with accepted real estate best practices. Finally, the Tribe requested that qualified Tribal officials be permitted to complete the Certifications of Inspection.

Response: The PTO is a lawyer client privileged document. To the extent any issues are identified in the PTO those issues are shared with the applicant so that they can be addressed. It is the policy of the BIA to ensure compliance with all applicable real estate service regulation, requirements, and standards, and to promote sustainable practices. *See* 52 IAM 1.3. Additionally, based on years of experience in trust transactions, the procedures found in § 151.14 are consistent with accepted real estate best practices. To ensure full compliance with this regulation, BIA will retain responsibilities to complete Certificates of Inspection.

Comment: One Tribe suggested a new section regarding indemnification agreements: If a Tribe is willing to accept an encumbrance, liens, or infirmity, the Department will accept the Tribe's judgment and allow the application to proceed, provided (a) the Tribe enters an indemnification agreement in favor of the BIA with respect to the issue, (b) the risk of liability is low or the magnitude of the liability is low, and (c) the Tribe agrees it can use the property for its intended purpose while the encumbrance remains.

• *Response:* In certain instances, the Department can accept into trust land with an encumbrance, lien or infirmity when the Tribe agrees to enter into an indemnification agreement in favor of the BIA. While not expressly written into the regulations, the ability exists with the Department on a case-by-case basis.

Comment: One Tribe suggested that clarification is still needed on what documents of title evidence are sufficient for the acquisition package and whether they are the same as those required if the request for acquisition is approved.

• *Response:* Sufficient documents of title evidence are listed in § 151.14. Section 151.8(a)(6) now explicitly refers to including title evidence listed in § 151.14. The Department understands that the documentation available to satisfy the criteria under § 151.14(a)(2)(ii) can vary by title company and what type of title document it is willing to issue. For that reason, we have included the term ''or equivalent'' to provide discretion in determining whether the documentation provided is sufficient to ensure marketable title. Additionally, the Department removed the requirement that the policy of title insurance be less than five (5) years old because the intent is to ensure marketable title which will require an individualized analysis rather than a bright line time limit on the issuance of the policy of title insurance.

§ 151.15 How will the Secretary conduct a review of environmental conditions?

Comment: One county requested that a socio-economic impact report be included as part of the NEPA environmental impact analysis.

• *Response:* In determining the information to be analyzed in an environmental impact analysis, the Secretary shall comply with the requirements of NEPA (43 U.S.C. 4321 *et seq.*), applicable Council on Environmental Quality regulations (40 CFR parts 1500–1508), and Department regulations (43 CFR part 46) and guidance.

Comment: Several Tribes recommended that the Department clarify that Phase I environmental site assessments would not need to be updated except when an evaluation of the pre-acquisition determines environmental conditions exist.

• *Response:* The Department declines to adopt the proposal. The final rule sets forth criteria for Phase I environmental site assessments that aim to simplify such review consistent with the requirements of Departmental Manual 602 DM 2. The Phase I environmental site assessment is the tool the Department uses to identify any environmental liabilities that may be a barrier to acquisition of real property. In many instances the site assessment will need to be updated to account for any remediation completed since the first site assessment or to confirm that no new environmental liabilities are evident on the property.

Comment: A Tribal consortium requested additional flexibility around environmental issues, specifically requesting that Tribes be able to assume liability for environmental issues on lands taken into trust.

• *Response:* Nothing in the regulations prohibits a Tribe from assuming liabilities on lands to be taken into trust.

Comment: An association of counties and others requested that NEPA analyses be submitted as part of a ''complete application.''

• *Response:* The regulation states that an acquisition package is not complete until the public review period for a final EIS or EA has concluded, or the categorical exclusion documentation is completed.

Comment: One Tribe requested various clarifications to proposed § 151.15, including why environmental assessments ''end load'' review of a Phase I environmental site assessment rather than requiring it as a component of a complete application required in § 151.8.

• *Response:* Section 151.8 requires that a complete application include information that allows the Secretary to comply with NEPA and 602 DM 2. Section 151.15(b), however, provides that the Secretary may require the applicant to provide information updating a prior pre-acquisition environmental site assessment (*i.e.,* a Phase I environmental site assessment). This is not an end loading of the process but instead a recognition that certain environmental documents may need to be updated prior to formalizing acceptance of title.

§ 151.16 How are formalization of acceptance and trust status attained?

Comment: A private individual requested that the entirety of proposed § 151.16 be redone and include the six-year statute of limitation timeframes in line with the APA.

• *Response:* The Department respectfully disagrees. Section 151.13(c) explains that the Assistant Secretary's decision constitutes a final agency action for purposes of the APA. Interior is retaining the requirement that, if the request will be approved, notice of such approval will be published in the **Federal Register**. Such publication makes clear that a final agency action has occurred. The Department believes this provides a sufficient timeframe for any interested party to challenge the decision and that explaining the APA's statute of limitations in the proposed regulation would be unnecessary duplicative.

Comment: One Tribe requested that proposed § 151.16(b) require formal notification to the applicable Tribe, so the date of official trust status is certain.

• *Response:* While not included in the regulation, the BIA will publish updated guidance in the FTT Handbook outlining how it will provide notice of the placement of the property in trust. BIA will be updating the FTT Handbook to reflect the changes made by this final rule.

Comment: A county requested that the proposed changes to § 151.16 include a final step that all land conveyance documents must be recorded in the county's land records for the conveyance to be officially recognized.

• *Response:* The final rule does not address recordation in the county records because fee-to-trust is an inherently Federal process. The BIA Division of Land Title Records is responsible for and serves as the office of record for all trust land and restricted land titles for Indian Tribes and individuals. Therefore, the primary requirement under § 151.16 is to record the trust deed with the appropriate Land Title Records Office (LTRO). BIA recognizes that recordation in the county can be beneficial and will publish a handbook outlining how title will be recorded. BIA will be updating the FTT Handbook to reflect the changes made by this final rule.

§ 151.17 What effect does this part have on pending requests and final agency decisions already issued?

Comment: Numerous Tribes expressed concern that under proposed § 151.17, Tribes who submitted prior to the new rules would not benefit from the 120-day time frame. One Tribe also requested that Tribes who previously submitted should have a mechanism to benefit from timely processing.

• *Response:* This is addressed in § 151.17. While the 120-day time frame does not apply to applications submitted prior to this final rule, the Department strives to process pending applications as quickly and efficiently as possible. Also, with the existing backlog, placing all applications on the 120-day timeline at once would present an enormous, if not impossible challenge for the Department.

Comment: One Tribe expressed concerned that the language in proposed § 151.17(b) is unclear as to whether presently pending matters in the IBIA will need to start over based on new requirements.

• *Response:* Section 151.17(b) makes it clear that this part does not alter BIA decisions currently on appeal on January 11, 2024. Thus, matters pending in the IBIA will not be affected.

Comment: One Tribe requested that Tribes who have pending applications be afforded a choice between the now-in-place rule and the draft rule, should the draft rule be adopted.

• *Response:* Section 151.17(a), addresses how applications pending at the time the final rule is promulgated are affected by the final rule.

Comment: A State requested that all interested parties be required to consent before Tribes with pending applications can proceed under the new regulations. The State also requested that a pending application processed under the new regulations be reopened for comment.

• *Response:* The Department declines to accept the proposal. The Tribal applicant is best positioned to determine whether it wants its application to be evaluated under prior regulations or the final rule. Proceeding under the final rule does not limit the ability of State and local governments to submit comments on the application. Moreover, reopening the comment period is unwarranted as the final rule contemplates that State and local governments will submit comments on the same topics enumerated under the existing regulations, *i.e.,* ''the acquisition's potential impacts on regulatory jurisdiction, real property taxes and special assessments.'' 25 CFR 151.10 (2022).

Comments on General Issues

Comment: One State commented that the proposed rule does not comply with Federal laws intended to allow States and local governments meaningful and timely input because the BIA allowed Tribes to comment on a draft prior to the draft being published for public comment. Specifically, the comment alleges that the BIA failed to comply with the Unfunded Mandates Reform Act and Executive Order 13132 which requires Federal agencies to have a process to meaningfully engage with State and local officials on action that have federalism implications.

• *Response:* The process used in formulating the regulation did not deprive States or local governments the ability to comment on the proposed regulation. Executive Order 13175 requires the BIA to consult with Tribes prior to taking any action that would have an impact on tribal governments. The BIA's consultation sessions with Tribes complied with that executive order. There is no requirement that the BIA engage in a similar process with States or local governments. Regardless, the BIA published a proposed notice of rulemaking in the **Federal Register** that provided a reasonable time for the submission of comments from the public. Many States and local governments, including the commenter, availed themselves of this opportunity and the BIA considered all submitted comments. Because the proposed

changes to the rule are largely procedural and do not expand the authority granted to the Secretary under the statute, they would not have a substantial direct effect or impose substantial compliance costs on States or local governments. Therefore, the proposed changes would not implicate the types of federalism concerns contemplated by Executive Order 13132.

Comment: A State government commented that the proposed rule eliminates the requirement that the Secretary consider the distance of the acquisition by removing the requirement that the Secretary give greater weight to the concerns'' raised for off-reservation acquisitions as the distance increases.

• *Response:* The rule does not eliminate the Secretary ability to consider distance in any decision. The rule only eliminates the requirement that the Secretary must give greater weight to concerns raised for those acquisitions that are off-reservation.

Comment: A State government commented that the IRA raises serious concerns under the nondelegation doctrine and that several lower court judges have expressed concern that the IRA is an unconstitutional delegation.

• *Response:* Numerous courts have considered and rejected the argument that the IRA violates principles of nondelegation, reasoning that the statute places ''adequate limits'' on the Secretary's discretion and that it is ''possible to ascertain whether the will of Congress has been obeyed.'' *South Dakota* v. *U.S. Dep't of Interior,* 423 F.3rd 790 (8th Cir. 2005) (quotations marks omitted); *see also Mich. Gambling Opposition* v. *Kempthorne,* 525 F.3d 23, 30 (D.C. Cir. 2008), *Carcieri* v. *Kempthorne,* 497 F.3d 15 (1st Cir. 2007), *rev'd on other grounds, Carcieri* v. *Salazar,* 555 U.S. 379 (2009), *United States* v. *Roberts,* 185 F.3d 1125, 1137 (10th Cir. 1999); *Confederated Tribes of Siletz Indians* v. *United States,* 110 F.3d 688, 698 (9th Cir. 1997) (stated in dicta that the land into trust power is a valid delegation). We are not aware of any court decision holding that the IRA is an unconstitutional delegation of authority.

Comment: A State government provided a detailed process for notification of new applications to State and local governments as well as for receiving and responding to comments on the application. This proposed process includes notification to States and local governments of an application, requires providing a those governments with a copy of the application along with unspecified other information the BIA may possess, notification to State and local governments that an applicant's package is complete and then provide that package to them within 10 calendar days upon request, requires the Secretary to consider any and all written comments by State or local governments regardless of the location of the land, and provide the applicant a reasonable time frame in which to respond to the State or local government comments.

• *Response:* We reject the proposed process because it would add to the timeline for action on an application beyond even the current regulations. One of the goals of revising these regulations is to shorten the timeline for processing applications. We believe that the process for notifying States and local governments and the timeline for receiving response from them is adequate for the Secretary to receive relevant information and to make an informed decision. Further, the final rule does not limit the Secretary's ability to consider any comments on any issues submitted by a State or local government.

Comment: One town expressed concerns that if a specific group of Indians became federally recognized and then were allowed to take land into trust in the town, that would result in severe consequences for the town.

• *Response:* These regulations do not provide a process for Federal recognition of any tribal group. The regulations only apply to already recognized Indian Tribes. Further, the final rule clarifies that if a Tribe is recognized under the part 83 process, that any historical evidence submitted during that process demonstrating that they were under Federal jurisdiction in 1934 may be used to determine whether the Secretary has authority to take land into trust for a particular tribe.

Comment: One town commented that while the regulations give ''great weight'' to tribal concerns they do not give any weight to the comments or concerns of a local community or State in the decision-making process.

• *Response:* The final rule provides that the Secretary will give great weight if the acquisition was for specific stated purposes. While the final rule does not give a specific weight to comments and concerns raised by local governments or States it is not true that it gives them no weight. The Secretary will consider any and all comments and concerns raised by local communities or States in making a decision to acquire land in trust for a tribe.

Comment: One Tribe suggested that ''interested parties,'' like State and local governments, be afforded notice and an opportunity to comment on acquisitions because the lack of that accommodation for ''interested parties'' often ensures that they ultimately file a formal appeal of a favorable decision.

• *Response:* The Department declines to adopt this proposal. In the Department's experience, most trust acquisition decisions issued by BIA officials are not challenged by any party. Given the changes in regulatory jurisdiction that occur as a result of acquiring land into trust, notice to State and local governments and consideration of comments received from them inform the Secretary's review of applications. Private individuals or entities have no regulatory jurisdiction over land and thus the same considerations are not present with respect to private parties. Such private parties can nevertheless submit comments on pending applications to the extent they want to.

Comment: Many counties, States, and local governments expressed general and broad opposition to the proposed regulations. One commenter asked that the Regulations include a citation to Constitutional provisions that provide authority for Congress to acquire lands for Indians. Another suggested the proposed rule would be invalid due to uncertainties regarding constitutional and statutory authority for the United States to take land into trust. That same commenter expressed significant concerns about federalism implications of the proposed rule. A separate commenter expressed concern that the proposed rule would unravel NEPA because it may result in decreased communication and cooperation between Tribes and local governments. Finally, a State commented that the proposed rule is unlawful under the APA because the Department must consider impacts on State and local governments.

• *Response:* We disagree with comments suggesting the final rule violates the APA or raises federalism concerns. The rulemaking complies with the APA. Notice of the proposed rulemaking provided an accurate picture of the Department's reasoning and provided interested parties an opportunity to meaningfully commend upon the proposed rule. The Department has considered potential impacts to State and local governments, including those raised in comments, and this Notice memorializes that consideration. Section 5 of the IRA does not violate principles of federalism because the Indian Commerce Clause grants Congress the power ''[t]o regulate commerce . . . with the Indian Tribes.'' U.S. Const. art. I, section 8, cl. 3. The Supreme Court has consistently

interpreted Congress' authority to legislate in matters involving Indian affairs broadly. *See, e.g., United States* v. *Lara,* 541 U.S. 193, 200, 124 S. Ct. 1628, 158 L. Ed. 2d 420 (2004). The Secretary's exercise of their discretionary land into fee-to-trust authority under section 5 of the IRA is a valid exercise of the power delegated to Congress by the Constitution. Under Department regulations, the promulgation of regulations is categorically excluded from NEPA. *See* 43 CFR 46.210(i) and Environmental Statement Memorandum 13–4, Use of Departmental Categorical Exclusion for Policies, Directives, Regulations, and Guidelines, Michaela E. Noble, Director Office of Environmental Policy and Compliance (Sept. 24, 2018). Furthermore, the proposed rule does not modify the procedural requirements of NEPA.

Comment: Some State and local governments argued that the presumptions unlawfully strip the Secretary of the case-by-case discretion required under the IRA.

• *Response:* The policy presumptions in the final rule cannot divest the Secretary's statutory discretion as authorized in the IRA. As explained herein, the presumptions adopted through the final rule are consistent with the purposes of the IRA and the policy goals of Tribal self-determination, self-government, and economic development reflected in that statute and other laws authorizing trust acquisitions. The Secretary retains statutory discretion to approve or deny an application after a holistic review of trust acquisition applications, supporting materials, and comments submitted on applications, which of course may demonstrate that a particular presumption should be rebutted.

Comment: A Tribal consortium expressed concern over how the process would work in Alaska, the need to account for the Alaska Native Claims Settlement Act, as well as other unique issues surrounding land in Alaska. It was also suggested that the expedited timelines in the proposed rule might be too short to allow the Department to effectively exercise fee-to-trust trust authorities in Alaska.

• *Response:* The Department is working with the BIA Alaska Regional Office to ensure it has all the necessary skills and equipment to process fee-to-trust applications in Alaska. In November 2022, the Department approved the first land into trust acquisition in Alaska in five years, and the second fee-to-trust acquisition in Alaska since the passage of the Alaska Native Claims Settlement Act in 1971. The Department anticipates further applications may be filed for land into trust in Alaska and the BIA will continue to provide resources to the Region for assistance with processing applications consistent with this final rule, Sol. Op. M–37076, and *Akiachak Native Community* v. *Jewell,* 935 F. Supp. 2d 195 (D.D.C. 2013), *vacated as moot,* 827 F.3d 100 (D.C. Cir. 2016).

Comment: A former attorney general submitted comments expressing disapproval of the removal of BIA consideration of ''jurisdictional problems and potential conflicts of land use.'' These concerns are rooted in law enforcement jurisdiction issues, which they assert are complicated in Indian country and the proposed changes would affect these issues.

• *Response:* The Secretary must consider ''jurisdictional problems and potential conflicts of land use'' when State and local governments raise these issues in comments submitted under §§ 151.11(c) and 151.12(d). The Secretary will carefully consider the potential conflicts and any associated impact on public safety and law enforcement jurisdiction.

Comment: Many Tribes suggested that an electronic filing system would be helpful in providing a streamlined platform for reviewing applications and following where applications are in the process.

• *Response:* The Department is mindful that improving the technologies used to implement these regulations is key to meeting the goal of improving efficiency and reducing the time it takes to process an application. The BIA is working to improve the current system—TAAMS—used to track fee-to-trust applications, and ensure it is up to date, and will continue to explore technological improvements including electronic filing systems to improve efficiency and applicant customer service.

Comment: Some comments identified minor grammatical or punctuation errors.

• *Response:* The Department made minor non-substantive corrections identified by commenters.

Comment: Several comments were received that were not directly responsive to the proposed regulations.

• *Response:* The Department has reviewed all comments received in response to the part 151 Notice of Proposed Rulemaking. Comments not directly responsive to the proposed regulations were not considered as part of the rulemaking and are not responded to here.

VI. Procedural Requirements

A. Regulatory Planning and Review (E.O. 12866 and E.O. 13563)

E.O. 12866, as reaffirmed by E.O. 13563 and E.O. 14094, provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is significant under E.O. 12866 section 3(f), but not significant under section 3(f)(1).

Executive Order 14094 reaffirms the principles of E.O. 12866 and E.O. 13563 and states that regulatory analysis should facilitate agency efforts to develop regulations that serve the public interest, advance statutory objectives, and are consistent with E.O. 12866, E.O. 13563, and the Presidential Memorandum of January 20, 2021 (Modernizing Regulatory Review). Regulatory analysis, as practicable and appropriate, shall recognize distributive impacts and equity, to the extent permitted by law. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. The Department and BIA developed this final rule in a manner consistent with these requirements.

B. Regulatory Flexibility Act

The Department certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The final rule would not change current funding requirements and would not impose any economic effects on small governmental entities because it makes no change to the status quo. The final rule codifies longstanding Departmental policies and interpretation of case law.

Tribal governments and individual Indians seeking to have fee-lands placed in trust by the United States for the benefit of Tribal governments and individual Indians will be able rely on the substantive provisions in the final rule for guidance on what may or may not be included in a land acquisition request package. Both § 151.9, which addresses on-reservation acquisitions, and § 151.10, which addresses acquisition of lands contiguous to reservation boundaries, are consistent with existing case law and are presumed to further Tribal interests and the adverse impacts to local governments and small entities are presumed to be minimal. Local governments, after receiving notice from the BIA that a Tribal government or individual Indian

submitted a land acquisition request package, are free to provide written comments, within 30 calendar days, to rebut the presumption of minimal adverse impacts to regulatory jurisdiction, real property taxes, and special assessments.

Furthermore, under both § 151.1, acquisition of lands outside of or noncontiguous to reservation boundaries, and § 151.12, an initial Indian acquisition, the Secretary will presume that the Tribal government will benefit from the lands acquisition. However, under both §§ 151.11 and 151.12, the Secretary is required to provide notice to State and local governments to submit written comments to rebut the presumption of minimal adverse impacts to regulatory jurisdiction, real property taxes, and special assessments.

C. Congressional Review Act (CRA)

This final rule does not meet the criteria in 5 U.S.C. 804(2). Specifically, it:

(a) Would not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

D. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement analyzing and estimating anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and Tribal Governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. *See* 2 U.S.C. 1532. The Act further requires that the agency publish a summary of such a statement with the agency's proposed and final rules.

This final rule would not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year. The final rule would not have a significant or unique effect on State, local, or Tribal governments or the private sector because this final rule affects only individual Indians and Tribal governments that petition the Department to take land into trust for their benefit. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

E. Takings (E.O. 12630)

This rule would not affect a taking of private property or otherwise have taking implications under E.O. 12630. A takings implication assessment is not required.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this final rule would not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. A federalism summary impact statement is not required.

G. Civil Justice Reform (E.O. 12988)

This final rule complies with the requirements of E.O. 12988. Specifically, this final rule: (a) meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and (b) meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

H. Consultation With Indian Tribes (E.O. 13175)

The Department strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and Tribal sovereignty. We have evaluated this final rule under the Department's consultation policy and under the criteria in E.O. 13175 and have hosted extensive consultation with federally recognized Indian Tribes in preparation of this final rule, including through a Dear Tribal Leader letter delivered to every federally recognized Tribe in the country, and through three consultation sessions held on May 9, 13, and 23, 2022.

The Department also held three Tribal consultation sessions during the public comment period. The first Tribal consultation was held in person on January 13, 2023, at the Bureau of Land Management Training Center in Phoenix, Arizona. The next two Tribal consultations were conducted virtually on Zoom. They occurred on January 19, 2023, and January 30, 2023. Following the consultation sessions, the Department accepted written comments until March 1, 2023.

I. Paperwork Reduction Act

This final rule does not contain any new collection of information that requires approval by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). OMB has previously approved the information collection requirements associated with the acquisition of lands through purchase, relinquishment, gift, exchange, or assignment within or without existing reservations for the purpose of providing land for Indian Tribes and assigned OMB Control Number 1076–0100, which expires January 31, 2024). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

J. National Environmental Policy Act (NEPA)

This final rule would not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because this is an administrative and procedural regulation. (For further information *see* 43 CFR 46.210(i)). We have also determined that the final rule would not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

K. Energy Effects (E.O. 13211)

This final rule is not a significant energy action under the definition in E.O. 13211. A Statement of Energy Effects is not required.

L. Clarity of This Regulation

We are required by Executive Orders 12866 (section 1(b)(12)), 12988 (section 3(b)(l)(B)), and 13563 (section l(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

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

(c) Use common, everyday words and clear language rather than jargon;

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

(e) Use lists and tables wherever possible.

M. Small Business Regulatory Enforcement Fairness Act

This final rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This final rule:

(a) Does not have an annual effect on the economy of $100 million or more because the funding available through JOM does not approach this amount.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, Tribal or local government agencies, or geographic regions because this rule affects only certain education contracts.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises because this rule affects only certain education contracts.

N. Regulatory Impact Analysis

Summary: This final rule is intended to make the fee-to-trust process less burdensome and more cost-efficient. In addition, the Department seeks to improve the fee-to-trust process because of the many benefits afforded to Tribal governments and their citizens, such as heightened regulatory jurisdiction over the lands, exemptions from State and local taxation, and restoration of Tribal homelands. This final rule also addresses delays in the current land acquisition process. The average length of time to receive a final fee-to-trust decision is approximately 985 days. Currently, there are 941 cases pending approval by the Department—the majority of which are for non-controversial, on-reservation acquisitions. This final rule will reduce the time it takes BIA to process fee-to-trust applications going forward and address the existing backlog.

Benefits: The anticipated benefits of the final rule include making the fee-to-trust process less burdensome and more cost-efficient and improve agency processing by:

- Reducing uncertainty and Tribal expenses by codifying standards that implement *Carcieri* v. *Salazar,* 555 U.S. 379 (2009), to increase clarity and certainty in determining the Secretary's authority to take land in trust for Tribes. Tribes will benefit by having the standards in the regulations and not having to ascertain these standards from existing case law, Departmental guidance, and previous determinations, and not risking lengthy litigation on the standards the Department considers.
- Reducing processing time and uncertainty by identifying the documents needed for a complete application, after which the BIA will issue a decision within 120 days.
- Increasing efficiency for Tribes and the Department by analyzing applications as either on-reservation, contiguous to a reservation, an initial acquisition for landless Tribes, or off-reservation, recognizing that each category requires specific criteria for an appropriate analysis.
- Reducing expense for Tribes by clarifying when environmental studies and reports are to be updated, thus, eliminating the need to maintain the current status of studies and reports when a decision date is not known by the Tribe.

Anticipated Impact: Transfers between Tribes and State and local jurisdictions. To the extent the final rule accelerates the fee-to-trust process, Tribes may receive tax exemptions sooner. If land remains taxable for a shorter period of time, there may be a reduction in taxes collected from Tribes by State and local jurisdictions. The anticipated costs of implementing the final rules are negligible:

- Tribes will see reduced expenses in the application process from clear standards and timelines.
- States and local jurisdictions will see little, if any, additional expense because the final rule's provisions for providing comments on regulatory jurisdiction, real property taxes, and special assessments remain the same. In some cases, States or local governments may incur additional expense if they wish to provide information to rebut the presumption of minimal adverse impacts to regulatory jurisdiction, real property taxes, and special assessments.
- BIA will see increased efficiencies in the application process, such as fewer hours spent processing applications and communicating with applicants on missing documents, because applications will be more thorough.

Alternative Policy Approaches: An alternative policy approach would be to maintain the existing regulations; however, this would result in:

- Continued lack of clarity and certainty for Tribes and need to hire outside counsel to meet *Carcieri* requirements and prepare applications, and continued litigation over *Carcieri* requirements and part 151 standards. Tribes would have to continue to incur costs to hire outside counsel.
- Continued lack of a policy to acquire land in trust for establishing a Tribal land base or protecting Tribal homelands, protecting sacred sites or cultural resources and practices, establishing or maintaining conservation or environmental mitigation areas, consolidating land ownership, reducing checkerboarding, acquiring land lost through allotment, protecting treaty or subsistence rights, or facilitating Tribal self-determination, economic development, Indian housing. This policy recognizes purposes for which Tribes acquire land in trust, many of which were not contemplated in the existing regulation, thus, reducing additional justification for the acquisition.

Conclusion: Therefore, maintaining the current regulation likely would increase legal costs for applicant Tribes as compared to final rule and its measures to promote cost efficiency. Maintaining the current regulation could also limit certainty about the Secretary's authority due to the *Carcieri* decision and omit information that could streamline Tribal applications, including the absence of land acquisition policy to support Tribal self-determination and sovereignty, no list of documents needed for a complete application, no guidance on the weight accorded to certain Tribal land uses, and criteria enabling certain presumptions.

List of Subjects in 25 CFR Part 151

Administrative practice and procedure, Indians—land acquisition.

■ For the reasons set forth in the preamble, the Department of the Interior, Bureau of Indian Affairs, revises 25 CFR part 151 to read as follows:

PART 151—LAND ACQUISITIONS

Sec.

151.1 What is the purpose of this part?
151.2 How are key terms defined?
151.3 What is the Secretary's land acquisition policy?
151.4 How will the Secretary determine that statutory authority exists to acquire land in trust status?
151.5 May the Secretary acquire land in trust status by exchange?
151.6 May the Secretary approve acquisition of a fractional interest?
151.7 Is Tribal consent required for nonmember acquisitions?
151.8 What documentation is included in a trust acquisition package?
151.9 How will the Secretary evaluate a request involving land within the boundaries of an Indian reservation?
151.10 How will the Secretary evaluate a request involving land contiguous to the boundaries of an Indian reservation?
151.11 How will the Secretary evaluate a request involving land outside of and noncontiguous to the boundaries of an Indian reservation?
151.11 How will the Secretary evaluate a request involving land outside of and noncontiguous to the boundaries of an Indian reservation?
151.12 How will the Secretary evaluate a request involving land for an initial Indian acquisition?
151.13 How will the Secretary act on requests?
151.14 How will the Secretary review title?
151.15 How will the Secretary conduct a review of environmental conditions?

151.16 How are formalization of acceptance and trust status attained?
151.17 What effect does this part have on pending requests and final agency decisions already issued?
151.18 Severability.

Authority: 5 U.S.C. 301; 25 U.S.C. 2, 9, 403a–2, 409a, 1466, 1495, 5107, 5108, 5136, 5138, 5201, 5202, 5322, 5341; Pub. L. 71–780, 46 Stat. 1471, amended by Pub. L. 72–231, 47 Stat. 474; Pub. L. 74–816, 49 Stat. 1967, amended by Sec. 10, Pub. L. 80–336, 61 Stat. 734; Secs. 3, 4, 6, Pub. L. 76–238, 53 Stat. 1129, 1130; Sec. 7, Pub. L. 79–706, 60 Stat. 969, amended by Pub. L. 91–627, 84 Stat. 1874; Pub. L. 81–226, 63 Stat. 605; Pub. L. 84–188, 69 Stat. 392, amended by Pub. L. 88–540, 78 Stat. 747, amended by Sec. 213, Pub. L. 100–581, 102 Stat. 2941, amended by Sec. 1, Pub. L. 101–301, 104 Stat. 206; Pub. L. 84–592, 70 Stat. 290, amended by Pub. L. 91–274, 84 Stat. 301; Pub. L. 84–772, 70 Stat. 626; Sec. 10, Pub. L. 87–231, 75 Stat. 505; Pub. L. 88–196, 77 Stat. 349; Pub. L. 88–418, 78 Stat. 389; Pub. L. 90–335, 82 Stat. 174, amended by Pub. L. 93–286, 88 Stat. 142; Pub. L. 90–534, 82 Stat. 884; Pub. L. 92–312, 86 Stat. 216; Pub. L. 92–377, 86 Stat. 530; Pub. L. 92–443, 86 Stat. 744; Sec. 11, Pub. L. 93–531, 88 Stat. 1716, amended by Sec. 4, Pub. L. 96–305, 94 Stat. 930, amended by Sec. 106, 98–603, 98 Stat. 3157, amended by Secs. 4(b), 8, Pub. L. 100–666, 102 Stat. 3930, 3933.

§ 151.1 What is the purpose of this part?

This part sets forth the authorities, policies, and procedures governing the acquisition of land by the United States in trust status for individual Indians and Tribes. This part does not cover acquisition of land by individual Indians and Tribes in fee simple status even though such land may, by operation of law, be held in restricted status following acquisition; acquisition of land mandated by Federal law; acquisition of land in trust status by inheritance or escheat; or transfers of land into restricted fee status unless required by Federal law.

§ 151.2 How are key terms defined?

Contiguous means two parcels of land having a common boundary notwithstanding the existence of non-navigable waters or a public road or right-of-way and includes parcels that touch at a point.

Fee interest means an interest in land that is owned in unrestricted fee simple status and is, thus, freely alienable by the fee owner.

Fractionated tract means a tract of Indian land owned in common by Indian landowners and/or fee owners holding undivided interests therein.

Indian land means any tract in which any interest is held by a Tribe or individual Indian in trust or restricted status and includes both individually owned Indian land and Tribal land.

Indian landowner means a Tribe or individual Indian who owns an interest in Indian land.

Indian reservation or *Tribe's reservation* means, unless another definition is required by Federal law authorizing a particular trust acquisition, that area of land over which the Tribe is recognized by the United States as having governmental jurisdiction, except that, in the State of Oklahoma wherever historic reservations have not yet been reaffirmed, or where there has been a final judicial determination that a reservation has been disestablished or diminished, *Indian reservation* means that area of land constituting the former reservation of the Tribe as defined by the Secretary.

Individual Indian means:

(1) Any person who is an enrolled member of a Tribe;

(2) Any person who is a descendent of such a member and said descendant was, on June 1, 1934, physically residing on a federally recognized Indian reservation; or

(3) Any other person possessing a total of one-half or more degree Indian blood of a Tribe.

Initial Indian acquisition means an acquisition of land in trust status for the benefit of a Tribe that currently has no land held in trust status.

Interested party means a person or other entity whose legally protected interests would be affected by a decision.

Land means real property or any interest therein.

Marketable title means title that a reasonable buyer would accept because it appears to lack substantial defect and that covers the entire property that the seller has purported to sell.

Preliminary Title Opinion means an opinion issued by the Office of the Solicitor that reviews the existing status of title, examining both record and non-record title evidence and any encumbrances or liens against the land, and sets forth requirements to be met before acquiring land in trust status.

Preliminary title report means a report prepared by a title company prior to issuing a policy of title insurance that shows the ownership of a specific parcel of land together with the liens and encumbrances thereon.

Restricted land or *land in restricted status* means land the title to which is held by an individual Indian or a Tribe and which can only be alienated or encumbered by the owner with the approval of the Secretary due to limitations contained in the conveyance instrument pursuant to Federal law or because a Federal law directly imposes such limitations.

Secretary means the Secretary of the Interior or authorized representative.

Tribe means any Indian Tribe listed under section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5130). For purposes of acquisitions made under the authority of 25 U.S.C. 5136 and 5138, or other statutory authority which specifically authorizes trust acquisitions for such corporations, *Tribe* also means a corporation chartered under section 17 of the Act of June 18, 1934 (48 Stat. 988; 25 U.S.C. 5124) or section 3 of the Act of June 26, 1936 (49 Stat. 1967; 25 U.S.C. 5203).

Trust land or *land in trust status* means land the title to which is held in trust by the United States for an individual Indian or a Tribe.

Undivided interest means a fractional share of ownership in an estate of Indian land where the estate is owned in common with other Indian landowners or fee owners.

§ 151.3 What is the Secretary's land acquisition policy?

(a) It is the Secretary's policy to acquire land in trust status through direct acquisition or transfer for individual Indians and Tribes to strengthen self-determination and sovereignty, ensure that every Tribe has protected homelands where its citizens can maintain their Tribal existence and way of life, and consolidate land ownership to strengthen Tribal governance over reservation lands and reduce checkerboarding. The Secretary retains discretion whether to acquire land in trust status where discretion is granted under Federal law. Land not held in trust or restricted status may only be acquired for an individual Indian or a Tribe in trust status when the acquisition is authorized by Federal law. No acquisition of land in trust status under these regulations, including a transfer of land already held in trust or restricted status, shall be valid unless the acquisition is approved by the Secretary.

(b) Subject to the provisions of Federal law authorizing trust land acquisitions, the Secretary may acquire land for a Tribe in trust status:

(1) When the land is located within the exterior boundaries of the Tribe's reservation or contiguous thereto;

(2) When the Tribe already owns an interest in the land; or

(3) When the Secretary determines that the acquisition of the land will further Tribal interests by establishing a Tribal land base or protecting Tribal homelands, protecting sacred sites or

cultural resources and practices, establishing or maintaining conservation or environmental mitigation areas, consolidating land ownership, reducing checkerboarding, acquiring land lost through allotment, protecting treaty or subsistence rights, or facilitating Tribal self-determination, economic development, Indian housing, or for other reasons the Secretary determines will support Tribal welfare.

(c) Subject to the provisions contained in Federal law which authorize land acquisitions or holding land in trust or restricted status, the Secretary may acquire land in trust status for an individual Indian:

(1) When the land is located within the exterior boundaries of an Indian reservation, or contiguous thereto; or

(2) When the land is already in trust or restricted status.

§ 151.4 How will the Secretary determine that statutory authority exists to acquire land in trust status?

When a Tribe's application relies on the first definition of ''Indian'' in the Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 5101 *et seq.*) (IRA) to establish statutory authority for the proposed acquisition, the Secretary will apply the following criteria to determine whether the Tribe was under Federal jurisdiction in 1934.

(a) In determining whether a Tribe was ''under Federal jurisdiction'' in 1934 within the meaning of section 19 of the IRA (48 Stat. 988; 25 U.S.C. 5129), the Secretary shall consider evidence of Federal jurisdiction in the manner provided in paragraphs (a)(1) through (5) of this section.

(1) Conclusive evidence establishes in and of itself both that a Tribe was placed under Federal jurisdiction and that this jurisdiction remained intact in 1934. If such evidence exists, no further analysis under this section is needed. The following is conclusive evidence that a Tribe was under Federal jurisdiction in 1934:

(i) A vote under section 18 of the IRA (48 Stat. 988; 25 U.S.C. 5125) to accept or reject the IRA as recorded in *Ten Years of Tribal Government Under I.R.A.,* Theodore Haas, United States Indian Service (Jan. 1947) (Haas List) or other Federal government document;

(ii) Land held in trust by the United States for the Tribe in 1934.

(iii) Secretarial approval of a Tribal constitution under section 16 of the IRA as recorded in the Haas List or other Federal Government document;

(iv) Secretarial approval of a charter of incorporation issued to a Tribe under section 17 of the IRA as recorded in the Haas List or other Federal Government document;

(v) An Executive Order for a specific Tribe that was still in effect in 1934;

(vi) Treaties to which a Tribe is a party, ratified by the United States and still in effect as to that party in 1934;

(vii) Continuing existence in 1934 or later of treaty rights guaranteed by a treaty ratified by the United States; or

(viii) Other evidence that the Secretary determines is conclusive in a particular case.

(2) Presumptive evidence is indicative that a Tribe was placed under Federal jurisdiction in or before 1934 and may indicate that such jurisdiction remained intact in 1934. In the absence of evidence indicating that Federal jurisdiction did not exist or did not exist in 1934, presumptive evidence satisfies the analysis under this section. The following is presumptive evidence that a Tribe was under Federal jurisdiction in 1934:

(i) Evidence of treaty negotiations or evidence a Tribe signed a treaty with the United States whether or not such treaty was ratified by Congress;

(ii) Listing of a Tribe in the Department of the Interior's 1934 Indian Population Report;

(iii) Evidence that the United States took efforts to acquire lands on behalf of a Tribe in the years leading up to the passage of the IRA;

(iv) Inclusion in Volume V of Charles J. Kappler's *Indian Affairs, Laws and Treaties;*

(v) Federal legislation for a specific Tribe, including land claim settlements and termination legislation enacted after 1934, which acknowledges the existence of a government-to-government relationship with a Tribe in or before 1934; or

(vi) Satisfaction of the criterion for Federal acknowledgment now located at 25 CFR 83.11(a) and previously located at 25 CFR 83.7(a), requiring that a Tribe ''has been identified as an American Indian entity on a substantially continuous basis,'' through evidence that brought the Tribe under Federal jurisdiction in or before 1934; or

(vii) Other evidence that the Secretary determines is presumptive in a particular case.

(3) In the absence of evidence identified above as conclusive or presumptive evidence, the Secretary may find that a Tribe was under Federal jurisdiction in 1934 when the United States in 1934 or at some point in the Tribe's history prior to 1934, took an action or series of actions that, when viewed in concert through a course of dealings or other relevant acts on behalf of a Tribe, or in some instances Tribal members, establishes or generally reflects Federal obligations, or duties, responsibility for or authority over the Tribe, and that such jurisdictional status remained intact in 1934.

(i) Examples of Federal actions that exhibit probative evidence of Federal jurisdiction may include but are not limited to, the Department's acquisition of land for a Tribe in implementing the Indian Reorganization Act of 1934, efforts by the Federal Government to conduct a vote under section 18 of the IRA to accept or reject the IRA where no vote was held, the attendance of Tribal members at Bureau of Indian Affairs operated schools, Federal decisions regarding whether to remove or not remove a Tribe from its homelands, the inclusion of a Tribe in Federal reports and surveys, the inclusion of a Tribe or Tribal members in Federal census records prepared by the Office of Indian Affairs, the approval of contracts between a Tribe and non-Indians; enforcement of the Trade and Intercourse Acts (Indian trader, liquor laws, and land transactions), and the provision of health and social services to a Tribe or Tribal members.

(4) When a Tribe is recognized under the 25 CFR part 83 process, the Secretary may rely on any evidence within the part 83 record that the Tribe was under Federal jurisdiction in or before 1934, consistent with § 151.4(a)(2) and (3).

(5) Evidence of executive officials disavowing Federal jurisdiction over a Tribe in certain instances is not conclusive evidence of a Tribe's Federal jurisdictional status. This is because such disavowals cannot themselves revoke Federal jurisdiction over a Tribe.

(b) For some Tribes, Congress enacted legislation after 1934 making the IRA applicable to the Tribe. The existence of such legislation making the IRA and its trust acquisition provisions applicable to a Tribe eliminates the need to determine whether a Tribe was under Federal jurisdiction in 1934.

(c) In order to be eligible for trust acquisitions under section 5 of the IRA, no additional ''under Federal jurisdiction'' analysis is required under this part for Tribes for which the Department has previously issued an analysis finding the Tribe was under Federal jurisdiction.

(d) Land may be acquired in trust status for an individual Indian or a Tribe in the State of Oklahoma under section 5 of the IRA if the acquisition comes within the terms of this part. This authority is in addition to all other statutory authority for such an acquisition.

(e) The Secretary may also acquire land in trust status for an individual Indian or a Tribe under this part when specifically authorized by Federal law other than section 5 of the IRA, subject to any limitations contained in that Federal law.

§ 151.5 May the Secretary acquire land in trust status by exchange?

The Secretary may acquire land in trust status on behalf of an individual Indian or Tribe by exchange under this part if authorized by Federal law and within the terms of this part. The disposal aspects of an exchange are governed by part 152 of this title.

§ 151.6 May the Secretary approve acquisition of a fractional interest?

Where the mandatory acquisition process provided under 25 U.S.C. 2216(c) is not applicable to a fractional interest acquisition, *e.g.,* where the acquisition proposed is off-reservation, the following section applies to discretionary acquisitions of fractional interests. The Secretary may approve the acquisition of a fractional interest in a fractionated tract in trust status by an individual Indian or a Tribe including when:

(a) The applicant already owns a fractional interest in the same parcel of land;

(b) The interest being acquired by the applicant is in fee status;

(c) The applicant offers to purchase the remaining undivided trust or restricted interests in the parcel at not less than their fair market value;

(d) There is a specific law which grants to the applicant the right to purchase an undivided interest or interests in trust or restricted land without offering to purchase all such interests; or

(e) The owner or owners of more than fifty percent of the remaining trust or restricted interests in the parcel consent in writing to the acquisition by the applicant.

§ 151.7 Is Tribal consent required for nonmember acquisitions?

An individual Indian or Tribe may acquire land in trust status on an Indian reservation other than its own only when the governing body of the Tribe having jurisdiction over such reservation consents in writing to the acquisition; provided, that such consent shall not be required if the individual Indian or the Tribe already owns an undivided trust or restricted interest in the parcel of land to be acquired.

§ 151.8 What documentation is included in a trust acquisition package?

An individual Indian or Tribe seeking to acquire land in trust status must file a written request, *i.e.,* application, with the Secretary. The request need not be in any special form but must set out the identity of the parties, a description of the land to be acquired, and other information which would show that the acquisition fulfills the requirements of this part. The Secretary will prepare the acquisition package using information provided by the applicant and analysis developed by the Secretary, as described in paragraphs (a)(1) through (9) of this section:

(a) A complete acquisition package consists of the following:

(1) The applicant must submit a request that the land be acquired in trust, as follows:

(i) If the applicant is an Indian Tribe, the Tribe's written request must be a signed Tribal letter for trust acquisition supported by a Tribal resolution or other act of the governing body of the Tribe;

(ii) If the applicant is an individual Indian, the individual's written request must be a signed letter requesting trust status;

(2) The applicant must submit documentation providing the information evaluated by the Secretary under § 151.9(a)(2) and (3), § 151.10(a)(2) and (3), § 151.11(a)(2) and (3), or § 151.12(a)(2) and (3) depending on which section applies to the application;

(3) The applicant must submit a statement identifying the existence of statutory authority for the acquisition including, if applicable, any supporting evidence that the Tribe was under Federal jurisdiction in 1934 pursuant to § 151.4.

(4) The applicant must submit a description of the land as follows:

(i) An aliquot part, government lot, parcel identified on a Government Land Office or Bureau of Land Management official survey plat, or lot block subdivision (LBS) legal description of the land and a map from the applicant, including a statement of the estate to be acquired, *e.g.,* all surface and mineral rights, surface rights only, surface rights and a portion of the mineral rights, etc.; or

(ii) A metes and bounds land description and survey if the land cannot be described by the methods listed in paragraph (a)(4)(i) of this section, including a statement of the estate to be acquired. The survey may be completed by a land surveyor registered in the jurisdiction in which the land is located when the land being acquired is fee simple land; and

(iii) An application package is not complete until the Secretary determines that the legal description or survey is sufficient.

(5) The applicant must submit information that allows the Secretary to comply with the National Environmental Policy Act (NEPA) and 602 DM 2, Land Acquisitions: Hazardous Substances Determinations pursuant to § 151.15; and

(i) An acquisition package is not complete until the public review period of a final environmental impact statement or, where appropriate, the final environmental assessment has concluded, or the categorical exclusion documentation is complete.

(ii) An acquisition package is not complete until a pre-acquisition Phase I environmental site assessment, and if necessary, a Phase II environmental site assessment completed pursuant to 602 DM 2 is determined to be sufficient by the Secretary.

(6) The applicant must submit title evidence pursuant to § 151.14.

(i) An acquisition package is not complete until the Secretary completes a Preliminary Title Opinion based on such evidence;

(7) The Secretary shall send notification letters pursuant to § 151.9, § 151.10, § 151.11, or § 151.12.

(8) The applicant must submit a statement that any existing covenants, easements, or restrictions of record will not interfere with the applicant's intended use of the land; and

(9) The applicant must submit any additional information or action requested by the Secretary, in writing, if warranted by the specific application.

(b) After the Bureau of Indian Affairs is in possession of a complete acquisition package, the Secretary shall:

(1) Notify the applicant within 30 calendar days in writing that the acquisition package is complete; and

(2) Issue a decision on a request within 120 calendar days after issuance of the notice of a complete acquisition package.

§ 151.9 How will the Secretary evaluate a request involving land within the boundaries of an Indian reservation?

(a) The Secretary shall consider the criteria in this section when evaluating requests for the acquisition of land in trust status when the land is located within the boundaries of an Indian reservation.

(1) The existence of statutory authority for the acquisition and any limitations contained in such authority;

(2) If the applicant is an individual Indian, the need for additional land, the

amount of trust or restricted land already owned by or for that individual, and the degree to which the individual needs assistance in handling their affairs;

(3) The purposes for which the land will be used; and

(4) If the land to be acquired is in fee status, whether the Bureau of Indian Affairs is equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status.

(b) The Secretary shall give great weight to acquiring land that serves any of the following purposes, in accordance with § 151.3:

(1) Furthers Tribal interests by establishing a Tribal land base or protects Tribal homelands;

(2) Protects sacred sites or cultural resources and practices;

(3) Establishes or maintains conservation or environmental mitigation areas;

(4) Consolidates land ownership;

(5) Reduces checkerboarding;

(6) Acquires land lost through allotment;

(7) Protects treaty or subsistence rights; or

(8) Facilitates Tribal self-determination, economic development, or Indian housing.

(c) When reviewing a Tribe's request for land within the boundaries of an Indian reservation, the Secretary presumes that the acquisition will further the Tribal interests described in paragraph (b) of this section, and adverse impacts to local governments' regulatory jurisdiction, real property taxes, and special assessments will be minimal, therefore the application should be approved.

(d) Upon receipt of a written request to have land acquired in trust within the boundaries of an Indian reservation the Secretary shall notify the State and local governments with regulatory jurisdiction over the land to be acquired of the applicant's request. The notice will inform the State or local government that each will be given 30 calendar days in which to provide written comments to rebut the presumption of minimal adverse impacts to regulatory jurisdiction, real property taxes, and special assessments. If the State or local government responds within 30 calendar days, a copy of the comments will be provided to the applicant, who will be given a reasonable time in which to reply, if they choose to do so in their discretion, or request that the Secretary issue a decision. In considering such comments, the Secretary presumes that the Tribal community will benefit from the acquisition.

§ 151.10 How will the Secretary evaluate a request involving land contiguous to the boundaries of an Indian reservation?

(a) The Secretary shall consider the criteria in this section when evaluating requests for the acquisition of land in trust status when the land is located contiguous to an Indian reservation:

(1) The existence of statutory authority for the acquisition and any limitations contained in such authority;

(2) If the applicant is an individual Indian, the need for additional land, the amount of trust or restricted land already owned by or for that individual, and the degree to which the individual needs assistance in handling their affairs;

(3) The purposes for which the land will be used; and

(4) If the land to be acquired is in fee status, whether the Bureau of Indian Affairs is equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status.

(b) The Secretary shall give great weight to acquiring land that serves any of the following purposes, in accordance with § 151.3:

(1) Furthers Tribal interests by establishing a Tribal land base or protects Tribal homelands;

(2) Protects sacred sites or cultural resources and practices;

(3) Establishes or maintains conservation or environmental mitigation areas;

(4) Consolidates land ownership;

(5) Reduces checkerboarding;

(6) Acquires land lost through allotment;

(7) Protects treaty or subsistence rights; or

(8) Facilitates Tribal self-determination, economic development, or Indian housing.

(c) When reviewing a Tribe's request for land contiguous to an Indian reservation, the Secretary presumes that the acquisition will further the Tribal interests described in paragraph (b) of this section, and adverse impacts to local governments' regulatory jurisdiction, real property taxes, and special assessments will be minimal, therefore the application should be approved.

(d) Upon receipt of a written request to have land contiguous to an Indian reservation acquired in trust status, the Secretary shall notify the State and local governments with regulatory jurisdiction over the land to be acquired. The notice will inform the State or local government that each will be given 30 calendar days in which to provide written comments to rebut the presumption of minimal adverse impacts to regulatory jurisdiction, real property taxes, and special assessments. If the State or local government responds within 30 calendar days, a copy of the comments will be provided to the applicant, who will be given a reasonable time in which to reply, if they choose to do so in their discretion, or request that the Secretary issue a decision. In considering such comments, the Secretary presumes that the Tribal community will benefit from the acquisition.

§ 151.11 How will the Secretary evaluate a request involving land outside of and noncontiguous to the boundaries of an Indian reservation?

(a) The Secretary shall consider the criteria in this section when evaluating requests for the acquisition of land in trust status when the land is located outside of and noncontiguous to an Indian reservation:

(1) The existence of statutory authority for the acquisition and any limitations contained in such authority;

(2) If the applicant is an individual Indian and the land is already held in trust or restricted status, the need for additional land, the amount of trust or restricted land already owned by or for that individual, and the degree to which the individual needs assistance in handling their affairs;

(3) The purposes for which the land will be used; and

(4) If the land to be acquired is in fee status, whether the Bureau of Indian Affairs is equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status.

(b) The Secretary shall give great weight to acquiring land that serves any of the following purposes, in accordance with § 151.3:

(1) Furthers Tribal interests by establishing a Tribal land base or protects Tribal homelands;

(2) Protects sacred sites or cultural resources and practices;

(3) Establishes or maintains conservation or environmental mitigation areas;

(4) Consolidates land ownership;

(5) Reduces checkerboarding;

(6) Acquires land lost through allotment;

(7) Protects treaty or subsistence rights; or

(8) Facilitates Tribal self-determination, economic development, or Indian housing.

(c) Upon receipt of a written request to have land outside the boundaries of

an Indian reservation acquired in trust status, the Secretary shall notify the State and local governments with regulatory jurisdiction over the land to be acquired. The notice will inform the State or local government that each will be given 30 calendar days in which to provide written comments on the acquisition's potential impact on regulatory jurisdiction, real property taxes, and special assessments. If the State or local government responds within 30 calendar days, a copy of the comments will be provided to the applicant, who will be given a reasonable time in which to reply, if they choose to do so in their discretion, or request that the Secretary issue a decision. In reviewing such comments, the Secretary will consider the location of the land and potential conflicts of land use. The Secretary presumes that the Tribe will benefit from the acquisition.

§ 151.12 How will the Secretary evaluate a request involving land for an initial Indian acquisition?

(a) The Secretary shall consider the criteria in this section when evaluating requests for the acquisition of land in trust status when a Tribe does not have a reservation or land held in trust.

(1) The existence of statutory authority for the acquisition and any limitations contained in such authority;

(2) The purposes for which the land will be used; and

(3) If the land to be acquired is in fee status, whether the Bureau of Indian Affairs is equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status.

(b) The Secretary shall give great weight to acquiring land that serves any of the following purposes, in accordance with § 151.3:

(1) Furthers Tribal interests by establishing a Tribal land base or protects Tribal homelands;

(2) Protects sacred sites or cultural resources and practices;

(3) Establishes or maintains conservation or environmental mitigation areas;

(4) Consolidates land ownership;

(5) Reduces checkerboarding;

(6) Acquires land lost through allotment;

(7) Protects treaty or subsistence rights; or

(8) Facilitates Tribal self-determination, economic development, or Indian housing.

(c) When reviewing a request for a Tribe that does not have a reservation or land held in trust, the Secretary presumes that the acquisition will further the Tribal interests described in paragraph (b) of this section, and adverse impacts to local governments' regulatory jurisdiction, real property taxes, and special assessments will be minimal, therefore the application should be approved.

(d) Upon receipt of a written request for land to be acquired in trust when a Tribe does not have a reservation or land held in trust, the Secretary shall notify the State and local governments with regulatory jurisdiction over the land to be acquired. The notice will inform the State or local government that each will be given 30 calendar days in which to provide written comments to rebut the presumption of minimal adverse impacts to regulatory jurisdiction, real property taxes, and special assessments. If the State or local government responds within 30 calendar days, a copy of the comments will be provided to the applicant, who will be given a reasonable time in which to reply, if they choose to do so in their discretion, or request that the Secretary issue a decision. In reviewing such comments, the Secretary will consider the location of the land and potential conflicts of land use. The Secretary presumes that the Tribe will benefit from the acquisition.

§ 151.13 How will the Secretary act on requests?

(a) The Secretary shall review each request and may request any additional information or justification deemed necessary to reach a decision.

(b) The Secretary's decision to approve or deny a request shall be in writing and state the reasons for the decision.

(c) A decision made by the Office of the Secretary or the Assistant Secretary—Indian Affairs pursuant to delegated authority, is a final agency action under 5 U.S.C. 704 upon issuance.

(1) If the Office of the Secretary or Assistant Secretary denies the request, the Assistant Secretary shall promptly provide the applicant with the decision.

(2) If the Office of the Secretary or Assistant Secretary approves the request, the Assistant Secretary shall:

(i) Promptly provide the applicant with the decision;

(ii) Promptly publish notice in the **Federal Register** of the decision to acquire land in trust status under this part; and

(iii) Immediately acquire the land in trust status under § 151.16 after the date such decision is issued and upon fulfillment of the requirements of any other Department of the Interior requirements.

(d) A decision made by a Bureau of Indian Affairs official, rather than the Office of the Secretary or Assistant Secretary, pursuant to delegated authority, is not a final agency action of the Department of the Interior under 5 U.S.C. 704 until administrative remedies are exhausted under part 2 of this chapter and under 43 CFR part 4, subpart D, or until the time for filing a notice of appeal has expired and no administrative appeal has been filed. Administrative appeals are governed by part 2 of this chapter and by 43 CFR part 4, subpart D.

(1) If the official denies the request, the official shall promptly provide the applicant with the decision and notification of the right to file an administrative appeal under part 2 of this chapter.

(2) If the official approves the request, the official shall:

(i) Promptly provide the applicant with the decision;

(ii) Promptly provide written notice, by U.S. mail or personal delivery, of the decision and the right, if any, to file an administrative appeal of such decision under part 2 of this chapter and 43 CFR part 4, subpart D to:

(A) Interested parties who have made themselves known, in writing, to the official prior to the decision being made; and

(B) The State and local governments having regulatory jurisdiction over the land to be acquired;

(iii) Promptly publish a notice in a newspaper of general circulation serving the affected area of the decision and the right, if any, of interested parties who did not make themselves known, in writing, to the official to file an administrative appeal of the decision under part 2 of this chapter; and

(iv) Immediately acquire the land in trust status under § 151.16 upon expiration of the time for filing a notice of appeal or upon exhaustion of administrative remedies under part 2 of this chapter and under 43 CFR part 4, subpart D, and upon the fulfillment of any other Department of the Interior requirements.

(3) The administrative appeal period begins on:

(i) The date of receipt of written notice by the applicant or interested parties entitled to notice under paragraphs (d)(1) and (d)(2)(ii) of this section; or

(ii) The date of first publication of the notice for unknown interested parties under paragraph (d)(2)(iii) of this section, which shall be deemed the date of receipt of the decision.

(4) Any party who wishes to seek judicial review of an official's decision

must first exhaust administrative remedies under 25 CFR part 2 and under 43 CFR part 4, subpart D.

§ 151.14 How will the Secretary review title?

(a) The applicant must submit title evidence as part of a complete acquisition package as described in § 151.8 as follows:

(1) The deed or other conveyance instrument providing evidence of the applicant's title or, if the applicant does not yet have title, the deed providing evidence of the transferor's title and a written agreement or affidavit from the transferor that title will be transferred to the United States on behalf of the applicant to complete the acquisition in trust status; and

(2) Either:

(i) A current title insurance commitment issued by a title company; or

(ii) The policy of title insurance issued by a title company to the applicant or current owner and an abstract of title issued by a title compact dating from the time the policy of title insurance was issued to the applicant or current owner to the present. The Secretary may accept a preliminary title report or equivalent document prepared by a title company in place of an abstract of title for purposes of this paragraph (a)(2)(ii) if the applicant provides evidence that the title company will not issue an abstract of title based on practice in the local jurisdiction, subject to the requirements of paragraph (b) of this section.

(3) The applicant may choose to provide title evidence meeting the title standards issued by the U.S. Department of Justice, in lieu of the evidence required by paragraph (a)(2) of this section.

(b) After reviewing title evidence, the Secretary shall notify the applicant of any liens, encumbrances, or infirmities that the Secretary identified and may seek additional information or action from the applicant needed to address such issues. The Secretary may require the elimination of any such liens, encumbrances, or infirmities prior to acceptance of the land in trust status if the Secretary determines that the liens, encumbrances, or infirmities make title to the land unmarketable.

§ 151.15 How will the Secretary conduct a review of environmental conditions?

(a) The Secretary shall comply with the requirements of the National Environmental Policy Act (NEPA) (43 U.S.C. 4321 *et seq.*), applicable Council on Environmental Quality regulations (40 CFR parts 1500–1508), and Department of the Interior regulations (43 CFR part 46) and guidance. The Secretary's compliance may require preparation of an environmental impact statement, an environmental assessment, a categorical exclusion, or other documentation that satisfies the requirements of NEPA.

(b) The Secretary shall comply with the terms of 602 DM 2, Land Acquisitions: Hazardous Substances Determinations, or its successor policy if replaced or renumbered, so long as such guidance remains in place and binding. If the Secretary approves a request for the acquisition of land in trust status, the Secretary may then require, before formalization of acceptance pursuant to § 151.16, that the applicant provide information updating a prior pre-acquisition environmental site assessment conducted under 602 DM 2.

(1) If no recognized environmental conditions or other environmental issues of concern are identified in the pre-acquisition environmental site assessment or before formalization of acceptance and all other requirements of this section and §§ 151.13 and 151.14 are met, the Secretary shall acquire the land in trust.

(2) If recognized environmental conditions or other environmental issues of concern are identified in the pre-acquisition environmental site assessment or before formalization of acceptance, the Secretary shall notify the applicant and may seek additional information or action from the applicant to address such issues of concern. The Secretary may require the elimination of any such issues of concern prior to the formalization of acceptance.

§ 151.16 How are formalization of acceptance and trust status attained?

(a) The Secretary shall formalize acceptance of land in trust status by signing an instrument of conveyance. The Secretary shall sign the instrument of conveyance after the requirements of §§ 151.13, 151.14, and 151.15 have been met.

(b) The land will attain trust status when the Secretary signs the instrument of conveyance.

(c) The Secretary shall record the deed with LTRO pursuant to part 150 of this chapter.

§ 151.17 What effect does this part have on pending requests and final agency decisions already issued?

(a) Requests pending on January 11, 2024 will continue to be processed under 25 CFR part 151 (revised as of April 1, 2023) unless the applicant requests in writing to proceed under this part.

(1) Upon receipt of such a request, the Secretary shall process the pending application under this part, except for § 151.8(b)(2).

(2) The Secretary shall consider the comments of State and local governments submitted under the notice provisions of 25 CFR part 151 (revised as of April 1, 2023).

(b) This part does not alter decisions of Bureau of Indian Affairs Officials under appeal on January 11, 2024 or final agency decisions made before January 11, 2024.

§ 151.18 Severability.

If any provision of this part, or any application of a provision, is stayed or determined to be invalid by a court of competent jurisdiction, the remaining provisions or applications are severable and shall continue in effect.

Bryan Newland,

Assistant Secretary—Indian Affairs.

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