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Rules and Regulations

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

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1207

[Doc. No. AMS–SC–22–0041]

Potato Research and Promotion Plan; Changes to Board Membership and Administrative Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule implements recommendations from the National Potato Promotion Board (Board) to change its membership and organization by revising the formula used to determine the number of producer and importer seats on the Board, reducing the maximum number of importer seats on the Board, and indefinitely suspending the Administrative Committee. In addition to these Board-recommended changes, the U.S. Department of Agriculture (USDA) makes several non-substantive changes to clarify the start of the term of office for Board members and modernize the Board's procedures. The Board administers the Potato Research and Promotion Plan (Plan) with oversight by the Agricultural Marketing Service (AMS).

DATES: Effective February 7, 2024.

FOR FURTHER INFORMATION CONTACT: Alexandra Caryl, Branch Chief, Mid-Atlantic Region Branch, Market Development Division, Specialty Crop Program, AMS, USDA, STOP 0244, 1400 Independence Avenue SW, Room 1406–S, Washington, DC 20250–0244; Telephone: (202) 720–8085; or Email: *Alexandra.Caryl@usda.gov.*

SUPPLEMENTARY INFORMATION: This rule affecting the Plan (7 CFR part 1207) is authorized under the Potato Research and Promotion Act of 1971 (Act) (7 U.S.C. 2611–2627).

Executive Orders 12866 and 13563

USDA is issuing this 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 action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review.

Executive Order 13175

This rule was reviewed under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, which requires agencies to consider whether their rulemaking actions would have Tribal implications. AMS has determined this 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.

Executive Order 12988

This rule was reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 311 of the Act (7 U.S.C. 2620), a person subject to the Plan may file a petition with USDA stating that the Plan, any provision of the Plan, or any obligation imposed in connection with the Plan, is not in accordance with law and requesting a modification of the Plan or to be exempted therefrom. Such person is afforded the opportunity for a hearing on the petition. Thereafter, USDA will issue a ruling on the petition. The Act provides that the district courts of the U.S. for any district in which the petitioner resides or conducts business shall have jurisdiction to review a final ruling on the petition if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of USDA's final ruling.

Background

Under the Plan, which became effective on March 9, 1972, the Board administers a nationally coordinated program of research, development, advertising, and promotion designed to strengthen potatoes' competitive position and expand domestic and foreign markets for potatoes and potato products. This program is financed by assessments on handlers and importers of potatoes and potato products.

This rule modifies the membership of the Board by revising the formula to determine the number of producer and importer seats on the Board. This action increases the current threshold from one member seat per five million hundredweight pounds of potatoes produced or imported to one seat per 10 million hundredweight for both producer and importer seats. This action further revises importer membership by reducing the maximum number of importer seats from five to two. Additionally, the action indefinitely suspends the Administrative Committee. Finally, this rule clarifies the start date of the term of office for Board members and modernizes certain Board procedures relating to the submission of votes and ballots.

The Board unanimously recommended the changes to its membership and the indefinite suspension of the Administrative Committee at a public meeting on March 9, 2022. Board members present for the vote represented domestic producers, importers, and the public, and the recommendations incorporated industry feedback collected by the Board over a three-year period.

Changes to Membership Rules

Section 1207.320(b) and (c) of the Plan provides the formula used to determine the number of producer and importer seats on the Board. Under the current formula, one seat is created for every five million hundredweight of potatoes produced or imported.

Therefore, as more potatoes are produced and imported, the Board has more seats.

The Board has encountered significant challenges in filling Board member seats. First, since the Board's inception, the potato industry has experienced both increased production and consolidation. Since the 1970s when the Board was created, production of potatoes in the U.S. as well as imports from Canada and other countries have increased substantially. At the same time, the number of commercial potato farmers and importers has decreased significantly. Accordingly, the number of seats on the Board has increased but there are fewer eligible producers and importers to fill them. Second, Board members are volunteers, nominated by peers to represent their State or importer sector. To be a member, domestic producers and importers use time otherwise spent with their businesses to travel to meetings and participate in committees and decision making. Board members are also expected to communicate the activities of the Board to their constituencies and recruit future Board members. While service as Board members is important, it is time-consuming.

As a result of these challenges, the Board in recent years has typically had approximately 125 total seats, of which only about 100 have been filled. Therefore, the Board has experienced roughly 25 vacancies each year. This rule increases the threshold from one member seat per five million hundredweight pounds of potatoes produced or imported to one seat per 10 million hundredweight for both producer and importer seats. With these changes, the Board expects the number of member seats to reduce to 80.

Section 308(b) of the Act (7 U.S.C. 2617(b)) and §§ 1207.320(c) and 1207.322(d) of the Plan currently allow for a maximum of five importer seats on the Board. Since importers started paying assessments in 1991, the Board has always included the maximum of five importer member seats. Like their domestic producer counterparts, however, potato importers have experienced industry consolidation. According to Customs and Border Protection data, in 2022 there were only 10 importers with annual receipts above the Small Business Administration's (SBA) threshold of $34 million. The Board has not filled all five positions in the last 10 years because of the small number of continuously active importers. Given members serve three-year terms and cannot serve more than two consecutive terms, along with the small number of importers, it is reasonable to decrease the maximum number of importers from five to two. Additionally, the Board conducted extensive outreach to affected stakeholders regarding this issue and received their support, as evidenced by the unanimous vote for this change.

The initial request for these changes came from domestic producers and importers. Since 2020, the Board has met with various State organizations across the country to discuss the changes. USDA and members of industry also participated in numerous public meetings conducted by the Board to discuss the chronic vacancies experienced by the Board as a result of its current size and structure. The solution developed by the Board reflects the input from these stakeholders.

Suspending the Administrative Committee

Section 1207.507 of the Plan establishes an Administrative Committee composed of 38 producer members, one importer member, and the public member, as provided for in the Board's bylaws. The Administrative Committee is selected annually. The Administrative Committee acts for the Board in implementing marketing research, development, advertising, and/or promotion activities as directed by the Board and is charged with developing and submitting to USDA for approval specific programs or projects. The Administrative Committee also acts for the Board in authorizing contracts or agreements for the development and carrying out of such programs or projects and the payment of the costs thereof with funds collected pursuant to the Plan. Finally, the Administrative Committee acts for the Board in contracting with cooperating agencies for the collection of assessments pursuant to the Plan.

Due to the changes to the Board's membership made by this final rule, which reduces membership seats to approximately 80, the Administrative Committee is no longer needed. Previously, the Board used the Administrative Committee like a smaller Board that met twice a year, while the full Board only met once. It was easier and cheaper for the Administrative Committee to convene and conduct business because of its reduced size. While the Board, with the changes, will still be larger than the Administrative Committee, the reduced membership under the changes allows the full Board to meet in lieu of the Administrative Committee. Meeting more frequently addresses a major industry concern that only members of committees, which make up the Administrative Committee, have sufficient interaction with staff to fully understand the programs and activities the Board implements. Although meeting more frequently may require a greater time commitment from Board members, the Board believes the benefits of this change outweigh any additional burden on members. Furthermore, as explained in the next section, this final rule also amends the regulations to permit voting and balloting via electronic methods, which is expected to increase the efficiency of the Board's operations and make it easier for members to participate. By reducing the Board size to a more reasonable number of members, the Board hopes to include all members on committees to promote Board member interaction and involvement. Therefore, this rule indefinitely suspends the Administrative Committee.

USDA Changes

Section 1207.321(a) states that the term of office of Board members starts on July 1, or such other date as may be specified in the regulations. In 1973, USDA added § 1207.504, which provided that the term of office would instead start on April 1. In 1984, § 1207.504 was amended to require the term of office to start on March 1. Since then, each member's term has started on March 1. This final rule changes the start date in § 1207.321(a) from July 1 to March 1 to match § 1207.504 and be consistent with the current practice of the Board.

In § 1207.325(c), the Plan provides that Board members may vote on non-controversial matters and matters of an emergency nature when there is not enough time to call an assembled meeting by mail, telegraph, or telephone. This final rule changes this language to remove the reference to telegraph as a means for voting and to allow for voting by mail, electronic mail, facsimile, or any other means of communication. In § 1207.503(a), (b), and (c), the Plan provides that producers and importers may nominate Board members at meetings or by mail ballots. This final rule changes this language to allow ballots to be submitted by mail, electronic mail, facsimile, or any other means of communication. These changes modernize the sections and increase accessibility to the voting and balloting processes by providing additional options.

Regulatory Flexibility Analysis

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS considered the

economic impact of this action on small entities. Accordingly, AMS prepared this final regulatory flexibility analysis. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be unduly or disproportionately burdened. The RFA requires, where feasible, an estimate of the number of small businesses affected by the rule. This regulatory flexibility analysis estimates a proportion of small businesses where it is not feasible to estimate a number.

The Small Business Administration (SBA) has established size standards that determine whether a business entity is a small business. The size standards are based on the entity's economic activity, or industry, and generally use the North American Industry Classification System (NAICS). The size standards are expressed in annual receipts in millions of dollars or in number of employees, and indicate the maximum allowed for an entity to be considered a small business.

The SBA defines small potato producers as those having annual receipts equal to or less than $4.25 million (Potato Farming, NAICS code 111211). Small agricultural service firms (handlers and importers) are defined as those having annual receipts equal to or less than $34 million (Postharvest Crop Activities, NAICS code 115114) (13 CFR 121.201). These were the numbers in effect when this regulatory flexibility analysis was prepared in October 2023.

According to the Board, in 2021 there were approximately 1,500 producers and 955 handlers of potatoes. Since data was not available on the number of producers that are small businesses according to the SBA standard, this analysis computes an estimate of the number of small farms using census data from the USDA's National Agricultural Statistics Service (NASS). Producers that pay Board assessments have a minimum of five acres of potatoes. The 2017 Agricultural Census (the most recent census data available) reported 2,420 farms with five or more harvested acres of potatoes, which is reasonably close to the Board estimate of 1,500 producers that paid assessments in 2021.

NASS reported a 2022 U.S. potato crop value of $5,069,511,000 and 895,600 harvested acres (the most recent annual data available). The estimated average value per harvested acre is $5,660 (obtained by dividing the crop value of $5,069,511,000 by the number of acres, 895,600). Thus, on average, a farm would have to harvest 751 or fewer acres of potatoes to meet the SBA's definition of a small business (obtained by dividing the SBA threshold of $4.25 million by the estimated 2022 average value per acre, $5,660).

According to the 2017 Agricultural Census, out of the 2,420 potato farms with five or more harvested acres, 2,030 farms (84 percent) harvested 749 or fewer acres, very close to the 751 or fewer acres in the previous computation. Based on these computations, and assuming a normal distribution, a large majority of potato farms paying assessments to the Board are small businesses according to SBA criteria.

As noted above, the SBA threshold size for a small agricultural service business is $34 million in annual sales. The Board estimate of the number of potato handlers in 2021 was 955. Dividing the $5.07 billion NASS crop revenue estimate by 955 yields an annual estimate of potato sales per handler of approximately $5.3 million (farm level value), which is well below $34 million, the SBA threshold size for a small agricultural service business.

Potato handlers perform various procedures to get potatoes to market, including grading, sorting, packaging, and shipment. What handlers are paid can be estimated by obtaining an annual average shipping point price for potatoes from AMS Market News. AMS shipping point prices capture the prices received by shippers (handlers) after buying potatoes from growers, and then grading, sorting, packaging, and shipping. The 2022 average AMS shipping point price received for potatoes ($0.20 per pound) is 55 percent higher than the 2022 average annual NASS price of $0.129 per pound received by growers. Adding 55 percent to the $5.3 million potato sales per handler at the farm level yields an estimate of $8.2 million average annual sales at the handler level, which is also well below the SBA small business threshold size of $34 million or less in annual sales. Assuming a normal distribution, a majority of potato handlers are small agricultural service businesses, according to SBA criteria.

Based on a review of 2022 potato import data from U.S. Customs and Border Protection, there were approximately 140 importers. Of those 140 importers, 130 (93 percent) had potato imports valued at $34 million or less, the SBA size threshold for small agricultural service firms. Therefore, 130 potato importers are small businesses in terms of potato import value, using SBA business size criteria.

This rule amends §§ 1207.320, 1207.321, 1207.322, 1207.325, and 1207.503, and suspends § 1207.507. The changes modify the membership of the Board by revising the formula to determine the number of seats on the Board and reducing the maximum number of importer seats on the Board. The changes also indefinitely suspend the Administrative Committee, clarify the start date of the term of office of Board members, and modernize the Board's voting and balloting procedures.

This rule does not impose any new costs on producers, handlers, or importers. This rule also does not impose any additional reporting, recordkeeping, or information collection requirements on affected entities. The changes are administrative in nature and allow the Board to more effectively carry out the requirements of the Plan while reducing costs and increasing participation. With these changes, fewer individuals are required to attend meetings, reducing the time burden and costs associated with traveling and attending meetings. Further, modernizing the Board's procedures to authorize additional methods for casting votes and ballots is expected to help increase participation.

The Board considered several options when evaluating the best course of action. Adopting a set number of seats per region with several at-large seats was considered. The industry preferred to continue using an annual volume calculation instead of setting a finite number of seats. The Board also considered taking no action and continuing to experience significant membership vacancies. The Board decided against this option because vacancies have become pervasive. Therefore, these alternatives were rejected.

Regarding outreach efforts, all the Board's meetings, including the March 9, 2022, meeting during which the Board recommendations relevant to this action were discussed, are open to the public and interested persons are invited to participate and express their views. No concerns were raised in these meetings about the changes proposed in this document.

As with all Federal promotion programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

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.

A proposed rule concerning this action was published in the **Federal Register** on September 5, 2023 (88 FR 60599). Copies of the proposed rule were sent via email to all potato producers, importers, and handlers. A copy of the proposed rule was also made available through the internet by AMS via *https://www.regulations.gov.* A 30-day comment period ending October 5, 2023, was provided for interested persons to respond to the proposal.

Comment Analysis

During the proposed rule's 30-day comment period, AMS received 13 comments and one ex parte communication, which may be viewed on the internet at *https://www.regulations.gov.* Twelve comments and the ex parte communication were in support of the changes, and one opposed the changes. Nine comments and the ex parte communication were from the potato industry and three were from the public.

Of the comments supporting the changes, several noted the changes would increase participation at the meetings. More specifically, one comment believed having each person serving the function of what is now the Administrative Committee will allow members to better understand the Board's strategy and vision. Another comment pointed to increased accountability and access to make programmatic decisions that represent all potato growers. Some comments mentioned that the changes would increase the efficiency of the Board, fostering more robust debate and making the decision-making more transparent. Other comments acknowledged the difficulty in recruiting members seats and remarked having fewer of them would make them easier to fill.

One of the commenters who ultimately supported the amendments expressed two concerns. The commenter questioned whether a smaller Board could adequately represent the interests of the public. In addition, the commenter suggested that the reduced size of the Board could lead to less dissent, fewer creative solutions to challenges, and fewer members with technical expertise.

This final rule does not reduce the public's representation nor access to the Board. First, this final rule does not change the number of public members on the Board. Pursuant to the regulations, the Board includes one public member in addition to its producer and importer members. Significantly too, all Board meetings are open to the public and interested persons are invited to participate and express their views. Additionally, the reduction in Board member seats is not expected to negatively impact the quality of the Board's work. Instead, it is expected that the reduced size of the Board will foster greater participation and engagement among members.

One comment did not support the changes as proposed. First, the commenter expressed concern that the amendments would create an imbalance between producers and importers on the Board by increasing the number of importer seats and decreasing the number of producer seats. The commenter suggested that the number of importer seats should be proportional to their contribution to assessment revenue and that the number of producer seats should not be reduced. Second, the commenter stated that the amendments would reduce diversity and inclusion and cause some states to be overrepresented or underrepresented on the Board. The commenter suggested that producer seats should be allocated to States based on equitable criteria and that the Board should encourage more participation from underrepresented farmers, including women and minorities. Third, the commenter opposed the indefinite suspension of the Administrative Committee. Fourth, unrelated to the changes implemented in this final rule, the commentor raised water consumption and pollution issues associated with potato production.

Regarding changing the number of importer and producer seats, the rule amends the formula that is applied to both producer and importer membership and reduces, not increases, the maximum number of importers that can serve on the Board. Specifically, the rule reduces the maximum number of importer seats from five to two. Since the Board's inception, the global potato industry has experienced both increased production and consolidation. Accordingly, the number of member seats has increased but there are fewer eligible producers and importers to fill them. In response to these industry shifts, the Board considered the current number of members, the challenges in recruitment, and how a reduction might change representation on the Board. Recognizing assessments contributed by both importers and producers, the Board proposed to increase the current threshold from one member seat per five million hundredweight pounds of potatoes produced or imported to one seat per 10 million hundredweight for both producer and importer seats.

As for using equitable criteria to allocate producer seats, § 1207.320(b) of the Plan provides the formula to determine the membership of the Board. This formula applies to all States equally and allocates member seats to States based on the volume of potatoes they produce. The amended formula in this rule also applies to all States equally, decreasing the number of members from each State proportionately. Regarding encouraging more participation from underrepresented farmers, the Board goes to great lengths to recruit underrepresented producers and importers to serve. During the nomination process, the Board conducts extensive outreach, including traveling to speak at local industry meetings and relevant agriculture-related associations. Additionally, AMS policy is that diversity of the boards, councils and committees it oversees should reflect the diversity of their industries in terms of the experience of members, methods of production and distribution, marketing strategies and other distinguishing factors, including but not limited to individuals from historically underserved communities, that will bring different perspectives and ideas to the table.

Regarding the Administrative Committee, it is comprised of 40 members and can act for the Board in implementing programs, projects, and authorizing contracts. When considering changes to the Plan, the Board initially modeled the projected membership to resemble the Administrative Committee because of its success in getting members involved and providing interaction with program staff. The Board further discussed the Administrative Committee's role with the reduced membership and considered keeping or amending it. However, considering industry's feedback, the Board believed the Administrative Committee was no longer needed. With this change, the opportunities for members to discuss and debate important issues related to the budget, contracts, audits, and reports of the Board will not be reduced. On the contrary, it is expected that the reduced size of the Board will increase participation and debate among Board members.

Concerning potato production's water consumption and pollution issues, § 1207.335(b) of the Plan provides that the Board can establish and carry on research and development projects and studies to the end that the marketing and utilization of potatoes may be encouraged, expanded, improved, or made more efficient. The Board uses this authority to support the industry's leading sustainability initiatives and funds several research projects. More

specifically, they fund research developing new potato varieties that will perform in hot and humid environments.

During the comment period, AMS received an ex parte communication responding to a posted comment. The commenter remarked the rule decreases the number of importer seats, not increases them. The commenter went on to mention the Board's diversity and inclusion efforts, stating the reduction of membership will not degrade diversity and inclusion efforts. Lastly, the commenter elaborated how the Board is increasing diversity by including all members on operating committees and commented that the Administrative Committee is no longer needed.

After consideration of all relevant material presented, including the information and recommendations submitted by the Board, comments submitted, and other available information, AMS determined this rule tends to effectuate the declared policy of the Act. Accordingly, no changes will be made to the rule as proposed based on the comments received.

List of Subjects in 7 CFR Part 1207

Advertising, Agricultural research, Potatoes, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Agricultural Marketing Service amends 7 CFR part 1207 as follows:

PART 1207—POTATO RESEARCH AND PROMOTION PLAN

■ 1. The authority citation for 7 CFR part 1207 continues to read as follows:

Authority: 7 U.S.C. 2611–2627; 7 U.S.C. 7401.

■ 2. Amend § 1207.320 by revising paragraphs (b) and (c) to read as follows:

§ 1207.320 Establishment and membership.

* * * * *

(b) Producer membership upon the Board shall be determined on the basis of the potato production reported in the latest Crop Production Annual Summary Report issued by the National Agricultural Statistics Service of the U.S. Department of Agriculture. If a State's potato production data is not provided by the National Agricultural Statistics Service, the Board may use an alternative data source that reliably reflects potato production in the United States. Unless the Secretary, upon recommendation of the Board, determines an alternate basis, for each 10 million hundredweight of such production, or major fraction thereof, produced within each State, such State shall be entitled to one member. However, each State shall initially be entitled to at least one member.

(c) The number of importer member positions on the Board shall be based on the hundredweights of potatoes, potato products equivalent to fresh potatoes, and seed potatoes imported into the United States but shall not exceed two importer members. Unless the Secretary, upon recommendation of the Board, determines an alternate basis, there shall be one importer member position for each 10 million hundredweight, or major fraction thereof, of potatoes, potato product equivalents, and seed potatoes imported into the United States.

* * * * *

■ 3. Amend § 1207.321 by revising paragraph (a) to read as follows:

§ 1207.321 Term of office.

(a) The term of office of Board members shall be 3 years, beginning March 1, or such other beginning date as may be approved pursuant to regulations.

* * * * *

■ 4. Amend § 1207.322 by revising paragraph (d) to read as follows:

§ 1207.322 Nominations and appointment.

* * * * *

(d) The importer members shall be nominated by importers of potatoes, potato products and/or seed potatoes. The number of importer members on the Board shall be announced by the Secretary and shall not exceed two members. The Board may call upon organizations of potato, potato products and/or seed potato importers to assist in nominating importers for membership on the Board. If such organizations fail to submit nominees or are determined by the Board to not adequately represent importers, then the Board may conduct meetings of importers to nominate eligible importers for Board member positions. In determining if importer organizations adequately represent importers, the Board shall consider:

(1) How many importers belong to the association;

(2) What percentage of the total number of importers is represented by the association;

(3) Is the association representative of the potato, potato product, and seed potato import industry;

(4) Does the association speak for potato, potato product, and seed potato importers; and

(5) Other relevant information as may be warranted.

* * * * *

■ 5. Amend § 1207.325 by revising paragraph (c) to read as follows:

§ 1207.325 Procedure.

* * * * *

(c) For routine and noncontroversial matters which do not require deliberation and the exchange of views, and for matters of an emergency nature when there is not enough time to call an assembled meeting, the Board may act upon a majority of concurring votes of its members cast by mail, telephone, electronic mail, facsimile, or any other means of communication. Any vote cast by telephone shall be confirmed promptly in writing.

■ 6. Amend § 1207.503 by revising paragraphs (a), (b), and (c) to read as follows:

§ 1207.503 Nominations.

(a) Pursuant to § 1207.322 of the plan, the Board shall assist producers in producing sections or States each year to nominate producer members for the Board. Such nominations may be conducted at meetings or with ballots submitted by mail, electronic mail, facsimile, or any other means of communication. One individual shall be nominated for each position to become vacant. A list of nominees shall be submitted to the Secretary for consideration by November 1 of each year.

(b) Pursuant to § 1207.322 of the plan, the Board shall assist importers each year to nominate importer members for the Board. Such nominations may be conducted at meetings or with ballots submitted by mail, electronic mail, facsimile, or any other means of communication.

(c) Nomination meetings or balloting by mail, electronic mail, facsimile, or any other means of communication shall be well publicized with notice given to producers, importers, and the Secretary at least 10 days prior to each meeting or distribution of ballots.

* * * * *

§ 1207.507 [Stayed]

■ 7. Stay § 1207.507 indefinitely.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2024–00089 Filed 1–5–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

10 CFR Part 612

RIN 1901–AB57

Civil Nuclear Credit Program and Recapture of Credits

AGENCY: Grid Deployment Office, Department of Energy.

ACTION: Interim final rule and request for comment.

SUMMARY: The Department of Energy (DOE or the Department) publishes this interim final rule to establish the procedure for the recapture of credits awarded under the Civil Nuclear Credit Program in accordance with the Infrastructure Investment and Jobs Act.

DATES: This rule is effective on January 8, 2024. Written comments must be received by February 7, 2024.

FOR FURTHER INFORMATION CONTACT: Mr. Theodore Taylor, Civil Nuclear Credit Program Manager, U.S. Department of Energy, Office of Nuclear Energy, 1000 Independence Avenue SW, Washington, DC 20585, (240) 477–0458, *CNC_Program_Mailbox@hq.doe.gov.*

ADDRESSES: DOE encourages submission of comments electronically through the Federal eRulemaking Portal: *www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit hard copy written comments (preferably an original and two copies), identified by RIN 1901–AB57, by postal mail to the Grid Deployment Office, Civil Nuclear Credit Program, Attention: Mr. Theodore Taylor, Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585. Because postal mail may be subject to processing delay, it is recommended that comments be submitted electronically. All comments should be captioned with ''Civil Nuclear Credit Program and Recapture of Credits Interim Final Rule Comments.'' Please include your name, organization affiliation, address, email address and telephone number in your comment. In general, comments received will be posted on *www.regulations.gov* without change, including any business or personal information provided. Comments received, including attachments and other supporting materials, will be part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

SUPPLEMENTARY INFORMATION:

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I. Summary of the Interim Final Rule

Section 40323 of the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117–58), codified at 42 U.S.C. 18753, also known as the Bipartisan Infrastructure Law, directs the Department to establish the Civil Nuclear Credit Program (CNC Program) to prevent premature closures of nuclear power plants by providing financial support for existing nuclear reactors projected to cease operations due to economic factors.

The IIJA also directs the Department to promulgate a regulation to provide for the recapture of credits awarded to a nuclear reactor if either (a) the nuclear reactor terminates operations during the 4-year award period or (b) the nuclear reactor does not operate at an annual loss in the absence of an allocation of credits. The purpose of this interim final rule is to establish the procedure for the recapture of credits for the first 4-year award period, for which applications were due September 6, 2022. While the elements of the CNC Program are broadly described below, this interim final rule itself is limited to the narrow circumstance where a certified nuclear reactor has met the criteria for the recapture of credits. The rule provides a mechanism for the Department to enforce the obligation of the nuclear reactor to continue operation during the 4-year award period and to relinquish its rights to credits if the nuclear reactor is not operating at a loss in the absence of the credits. To minimize the likelihood for the need to recapture credits under the rule, the Department has included in the CNC Program an audit and annual payment adjustment mechanism at the end of each award year during the 4-year award period to evaluate the financial results of operation for that year and to adjust payment of credits based on that evaluation. The recapture regulation ensures that a reactor cannot retain the value of credits if, despite the annual adjustment, the nuclear reactor would not have operated at an annual loss in the absence of an allocation of credits over the 4-year award period or if the nuclear reactor terminates operations despite its contractual obligation to operate for the entire 4-year award period.

II. Authority and Background

A. The Statute

Section 40323 of the IIJA directs the Department to establish the CNC Program to provide financial support for existing nuclear reactors projected to cease operations due to economic factors in the form of credits to be awarded for a 4-year award period. The IIJA appropriates $6 billion for the CNC Program. The CNC Program will make meaningful progress towards a carbon pollution-free electricity sector by 2035, help ''deliver an equitable, clean energy future, and put the United States on a path to achieve net-zero emissions, economy-wide, by no later than 2050 to the benefit of all Americans.'' [1] In addition, the CNC Program—by preventing shutdown of the existing nuclear fleet—allows the bulk power system to retain firm, reliable capacity that is urgently needed in the face of extreme weather and drought.[2]

B. Recapture of Credits

Section 40323(g)(2) of the IIJA requires that the Secretary, ''by regulation, provide for the recapture of the allocation of any credit to a certified

[1] Executive Order 14008, ''Tackling the Climate Crisis at Home and Abroad,'' January 27, 2021.

[2] North American Electric Reliability Corporation, 2022 Summer Reliability Assessment at 4 (May 2022), *https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_SRA_2022.pdf.*

nuclear reactor that during [the 4-year award period]—(A) terminates operations; or (B) does not operate at an annual loss in the absence of an allocation of credits to the certified nuclear reactor.'' [3] This interim final rule establishes the procedure for the recapture of credits in accordance with that requirement. This interim final rule relates only to the recapture provision. No other provision of the CNC Program is subject to implementation by regulation.

C. CNC Guidance

The IIJA directed the Secretary to establish the CNC Program.[4] In order to meet this direction, the Department on April 19, 2022, issued Guidance for the Civil Nuclear Credit Program and issued Amended Guidance on June 30, 2022 (the initial Guidance as revised by the Amended Guidance, including each of the attachments thereto, is referred to herein as the Guidance).[5] The Guidance describes the timelines, deliverables, and other requirements for owners or operators of nuclear reactors that are projected to cease operations due to economic factors to submit certification applications to become certified nuclear reactors, and instructions on formulating and submitting sealed bids to receive credit allocations. The Guidance is applicable to the first in a series of annual award cycles that the Department will conduct to implement the CNC Program. The deadline for the first award period certification applications and bid submissions was September 6, 2022. The Department intends to issue updated Guidance for each subsequent award period. The Department may enter into a binding agreement establishing the terms of the award and payment of credits with each owner or operator whose application is certified and whose bid is accepted by the Department (referred to herein as the Award Agreement).

III. Notice of Intent and Request for Information

A. Request for Information

On February 15, 2022, the Department published a *Notice of Intent and Request for Information Regarding Establishment of a Civil Nuclear Credit Program* (RFI).[6] The RFI explained DOE's proposed structure of the CNC Program and included a description of the subjects and the issues relevant to the recapture requirement. The RFI described the requirement in the IIJA that DOE provide for recapture of allocated credits if the nuclear reactor terminated operations or if it did ''not operate at an annual loss in the absence of an allocation of credits.'' [7] As the Department explained, it proposed to include an annual settlement mechanism through which the value of a reactor's credit allocation would be adjusted if actual economic performance varies from projections underlying the credits awarded.[8] The Department anticipated that an annual adjustment mechanism would reduce the need for recapture by ensuring that the annual payout of credits would track the actual operating loss of the nuclear reactor, subject to a cap on annual value of credits established at the time of award.[9] The Department recognized that the recapture of credits would nevertheless be required ''[i]f an adjustment to allocated credits [pursuant to the annual adjustment process] is not possible despite material changes in economic performance, or if the reactor terminates operations.'' [10]

The RFI requested interested persons to provide feedback on the elements of the CNC Program, including recapture, and propounded specific questions on the conduct of periodic audits and the annual resetting of the value of credits to be paid out based on actual revenues.[11] More than 120 responses were received representing a broad array of interests and viewpoints, including from individuals, Federal elected officials, State public utility commissions and other State officials, trade associations, owners and operators of nuclear generators, uranium suppliers, and a number of public interest groups.

B. Comments on Recapture and Annual Adjustment

Discussed underneath are comments received in response to the RFI related to the recapture of credits that is the subject of this interim final rule.[12] Although Congress directed the Department to adopt a regulation only with respect to the recapture provision, the Department is also addressing comments on the annual adjustment mechanism and certain other terms identified in the RFI to the extent those provisions may be relevant to operation of the recapture mechanism.

1. Scope of Recapture in Regulation

(a) Comments Received

The Department received a number of comments on the recapture provision in response to the RFI. Some parties suggested that the scope of the recapture provision should be expanded to mandate recapture for circumstances in addition to nuclear reactor termination of operations and failure to operate at an annual loss in the absence of an allocation of credits. Nuclear Information and Resource Service (NIRS) recommended that the Department ''include a provision to recapture credits if the Nuclear Regulatory Commission (NRC), at a later date, finds violations or safety performance problems that would have caused the reactor'' to fail to meet the certification criteria related to safety.[13] The Green Scissors coalition made a similar recommendation, suggesting that the Department ''review any violations and safety performance findings issued by the Nuclear Regulatory Commission . . . , and determine if the award should be discontinued and if any amounts must be recaptured.'' [14] Ur-Energy USA Inc. (Ur-Energy) opposed the use of recapture (as well as any annual adjustment) because the ''[f]ailure to make a fixed 4-year commitment will introduce risk to the utilities and undermine the Department's intentions.'' [15] Energy Harbor Corp. (Energy Harbor) recommended that the Department clarify that recapture for termination of operations only apply if that termination occurs during the 4-year allocation period.[16] Energy Harbor also stated that recapture should not occur as a result of change in operating results from the projections used in the nuclear reactor's application for credits.[17] However, Energy Harbor continued, if recapture is used for circumstances other than closure, the Department should include ''an appeals process for certified nuclear reactors to challenge the recapture of their credits.'' [18] Constellation Energy Corporation (Constellation) stated that ''[t]he recapture process must be known before

[3] IIJA section 40323(g)(2).

[4] IIJA section 40323(b).

[5] *Notice of Availability of Guidance for the First Award Period of the Civil Nuclear Credit Program,* 87 FR 24291 (April 25, 2022). The Guidance, including both the initial Guidance and the Amended Guidance, is posted at *https://www.energy.gov/ne/civil-nuclear-credit-program.* Citations herein to specific pages of the Guidance refer to the Amended Guidance available at *Microsoft Word—US DOE CNC Guidance-Revision 1-June 2022 (energy.gov).*

[6] 87 FR 8570 (Feb. 15, 2022).

[7] *Id.* at 87 FR 8572.

[8] *Id.*

[9] *Id.*

[10] *Id.*

[11] *Id.* at 87 FR 8572 and 8574.

[12] All comments are available at *www.regulations.gov.*

[13] NIRS at 6.

[14] Green Scissors Comments at 2.

[15] Ur-Energy comments at 2.

[16] Energy Harbor Comments at 19.

[17] Energy Harbor Comments at 19.

[18] Energy Harbor Comments at 19–20.

credits are allocated in order for nuclear owners to be able to properly evaluate whether or not to accept the credits.'' [19]

(b) The Department's Response

The statute expressly requires recapture both for termination of operations and for failure to operate at an annual loss in the absence of an allocation of credits. The recapture regulation satisfies this requirement. The Department has not included an additional recapture trigger for violations or safety findings under the nuclear reactor's NRC license. While adherence by nuclear reactors to the highest safety standards is critically important, the NRC possesses adequate tools to enforce its safety requirements and address violations. If the nuclear reactor is subsequently required to expend incremental funds to remedy a safety condition or pay a fine, it will not be entitled to reflect those additional costs in the calculation of credits because each nuclear reactor's credit amount is capped at the value of credits awarded in the auction. The Department has included in the recapture regulation a notice provision and a process to request reconsideration of a recapture determination. The recapture regulation also allows an owner or operator of a nuclear reactor that is aggrieved by a decision on reconsideration to petition the Department's Office of Hearings and Appeals for review of that decision.

2. Inclusion in the CNC Program of an Annual Adjustment Mechanism

(a) Comments Received

In response to the RFI, the Department received numerous comments on the use of an annual adjustment mechanism. Generation Atomic stated that the use of an annual adjustment mechanism is not appropriate because it is not included in the text of the IIJA, ''or even hinted at,'' and the only measure for adjustment of credit that has been authorized by Congress is the recapture mechanism at the end of the 4-year award period.[20] This commenter identified the adjustment mechanisms as being ''several orders of magnitude much more complicated than Congress intended'' and that as a result ''cash flows will become far less predictable'' and impair the ability of nuclear reactor to plan effectively for upgrades.[21] Energy Harbor did not support the use of an annual adjustment but instead recommended a recapture mechanism that uses a three-year rolling average of the forward prices from the closest trading hub adjusted on an annual basis to determine if recapture is necessary.[22] Energy Harbor also noted that each specific nuclear reactor may have ''a specific contractual agreement which would make the standardized market price assumption inaccurate,'' in which case the nuclear reactor ''should be able to request an exception from the standardized market price.'' [23]

Monitoring Analytics, Inc. (Monitoring Analytics) supported use of an annual adjustment of the credit amount but argued that the adjustment should be calculated annually in advance, rather than after the conclusion of the award year. It recommended that a strike price based on known forward prices should be defined annually for the following year and that strike price would set the nuclear reactor's credit level for the following year.[24] Monitoring Analytics reasoned that an indexing mechanism like this ''would reduce the need for after the fact recapture provisions.'' [25]

Other commenters supported the use of an annual adjustment conducted at the conclusion of an award year as proposed in the RFI. For example, Constellation observed that ''[t]he DOE proposal of a credit price adjustment based on relevant market price indices is a simple and transparent mechanism which ensures fair after-the-fact treatment of both suppliers and taxpayers.'' [26] The Electric Power Supply Association (EPSA) stated that an annual adjustment mechanism should be employed and that if the nuclear reactor ''does not operate at an annual loss in the absence of a CNC credit, those funds must be recaptured by DOE.'' [27] NRG Energy, Inc. (NRG Energy) recommended that the Department perform an annual calculation based on the reactor's actual revenue, costs, and losses, ''in comparison to and in substantially the same form as the base projection'' on which the award was based to measure actual loss and pay out credits.[28] The Union of Concerned Scientists (UCS) supported an annual adjustment mechanism, pointing out that an adjustment or indexing mechanism can ''account for the inherent uncertainties and rapidly changing market conditions that are often difficult to accurately project,'' as well as ''ensure that taxpayer dollars are spent wisely and achieve important economic and emission reduction benefits.'' [29] However, UCS noted that potential disadvantages of an annual adjustment or indexing mechanism are that it may complicate program administration and deter nuclear reactor participation.[30] The Clean Air Task Force (CATF) explained that ''a true-up mechanisms based on transparent and verifiable indicators of revenues actually realized (*i.e.,* MWh produced and RTO settlements), relative to the avoided cost threshold for retirement, could result in no more risk for the reactor and more credits available for the CNC program.'' [31]

Comments diverged over whether the Department should adjust awarded credits based on an index established by the Department or an index selected by the nuclear reactor, or some other factor. As noted in the preceding paragraph, NRG Energy recommended that the annual adjustment be based on actual revenue and other results of operation of the nuclear reactor. EPSA opposed the use of an index, arguing that the IIJA requires that nuclear reactors awarded credits must ''demonstrate on an annual basis that they did or did not operate at an annual loss in the absence of CNC credits.'' [32] Epoch Energy Advisory Services, LLC (Epoch Energy) observed that the Department ''should avoid the credit from creating windfalls for reactors should market prices turn out to be high.'' [33] To avoid this outcome, Epoch Energy proposed a true-up mechanism based on actual market prices.[34] Dominion Energy Nuclear Connecticut, Inc. (Dominion) stated that the Department should not use an indexing mechanism, because an index ''does not accurately reflect the actual revenues earned by a unit'' through forward contracts and other hedging measures.[35]

The Nuclear Energy Institute (NEI) supported the use of an index at the option of a reactor but observed that ''[t]here can be a significant disconnect between a real-time or day-ahead locational marginal pricing and the actual sales at a plant . . . . If DOE were to require the award to adjust in reaction to short-term market prices, there is a risk that the expectations formed from those prices may not actually be reflected in the realized

[19] Constellation Comments at 6.
[20] Generation Atomic Comments at 4.
[21] Generation Atomic Comments at 5.
[22] Energy Harbor Comments at 9.
[23] Energy Harbor Comments at 10.
[24] Monitoring Analytics Comments at 15.
[25] Monitoring Analytics Comments at 14–15.
[26] Constellation Comments at 6.
[27] EPSA Comments at 13.
[28] NRG Energy Comments at 4.
[29] UCS Comments at 10.
[30] UCS Comments at 10.
[31] CATF Comments at 13.
[32] EPSA Comments at 13.
[33] Epoch Energy Comments at 5.
[34] Epoch Energy Comments at 5.
[35] Dominion Comments at 4–5.

revenue at the reactor.'' [36] PSEG Nuclear LLC (PSEG) supported the use of an annual adjustment based on an indexing mechanism, but emphasized that each nuclear reactor should be allowed to select its own index mechanism that reflects its geographic and market location and that accounts for the nuclear reactor's forward sales and hedges.[37] PSEG stated that if an adjustment mechanism is used, the Department should not place a ceiling on an upwards adjustment.[38]

UCS supported the use of an annual adjustment, settlement and index mechanism, depending on design,[39] and supported ''a ceiling on the adjusted credit value to ensure that DOE does not owe more money than is available each year.'' [40] CATF stated that the adjustment to the credits must not exceed the level of the nuclear reactor's bid, which bid itself is limited by the IIJA to not exceed the projected operating loss.[41] EPSA stated that if economic conditions change materially during the 4-year award period such that the nuclear reactor's losses exceed the credits awarded, the nuclear reactor should be required to submit a revised bid for CNC credits in a re-certification process, rather than have its credits increased as part of the annual adjustment.[42]

(b) The Department's Response

As explained in the Guidance, an owner or operator of a nuclear reactor that is awarded credits must file an annual report to receive payment of credits and the Department will audit the reported information.[43] The value of credits paid to an owner or operator each year will be adjusted based on the annual adjustment analysis conducted as part of the annual review.[44] The IIJA does not specify the intervals at which credits will be paid to the owner or operator or the conditions that the Department may establish to determine the amount to be paid but does direct the Secretary to periodically audit the certified nuclear reactor during the award period. The Department believes that an annual payment process is sufficient to provide timely payment to nuclear reactors for credits awarded. Furthermore, adjusting the payment based on an annual audit following the conclusion of the award year ensures that the payment is properly determined. The annual calculation will compare actual revenues in certain identified categories to forecasted revenues for those categories and actual costs in certain identified categories to forecasted costs for those categories as used to determine the value of credits that were awarded. The Department concluded that using actual data in these categories (rather than indices or industry averages) accurately reflects the financial results of the nuclear reactor and the owner or operator, and at the same time is administratively straightforward and auditable. Other elements of the nuclear reactor's costs, including the cost of operational and market risks, will be held constant in the annual adjustment calculation. As required by the IIJA, the credits awarded represent the ceiling on the annual payment that the nuclear reactor may receive, but the value of the credits can be reduced or eliminated based on actual financial results as set forth in the Award Agreement. This mechanism ensures taxpayer funds are expended only to the extent that the owner or operator would have experienced an annual loss in the absence of those credits.

3. Relationship of Annual Adjustment Mechanism and Recapture Regulation

(a) Comments Received

Commenters recognized the importance of the recapture provision working in concert with the audit and annual adjustment mechanism and other related terms of the CNC Program. NEI cautioned that the goal of the recapture procedure to ensure the effective use of taxpayer money ''must be balanced against the policy objective Congress sought to achieve'' to support economically at-risk nuclear reactors.[45] NEI worried that ''[a]n overly burdensome recapture provision risks unintended consequences that undermine the intent of Congress,'' and could cause a nuclear reactor to cease operations rather than participate in the CNC program.[46] The United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, AFL–CIO (UA) stated that the Department ''must take care when implementing the CNC Program that operation of this recapture provision is not overly burdensome such that financially struggling reactors are discouraged from participating.'' [47]

NEI also stated that the Department should ensure consistency between the recapture regulations and the other established elements of the CNC Program.[48] For example, NEI explained, operational and market risks that the IIJA explicitly directs be included in the calculation of the credits awarded should also be included in the recapture calculation.[49] PSEG and Constellation similarly noted that risks incorporated in the calculations supporting the award of credits should be included in the annual adjustment and the recapture analysis.[50] Constellation stated that if the recapture mechanism is ''substantially different from the proposed annual adjustment, it is likely to create a significant deterrent to participation and undermine the intent of the program.'' [51] UCS noted that an adjustment mechanism ''could interact directly with the recapture provision,'' such that a reduction in credits based on changes in revenues would reduce the credits to be recaptured.[52] NRG Energy observed that by paying credits based only on actual losses determined after each award year, the need for recapture at the conclusion of the 4-year award period would be eliminated.[53] PSEG suggested that ''any recapture analysis evaluate a reactor's economic position over the full period of the CNC Program, and not on a year-by-year basis.'' [54]

(b) The Department's Response

The Department has concluded that the use of an effective annual settlement mechanism to determine the value of credits to be paid to the owner or operator in each award year will reduce the need for recapture at the conclusion of the 4-year award period. To do so, the recapture mechanism must be consistent with the annual adjustment mechanism because both mechanisms measure the nuclear reactor's operating results. The Department will evaluate the same revenue and cost elements in both the annual adjustment and in the recapture calculation, thereby ensuring that the nuclear reactor receives payment for credits consistent with the Award Agreement, and at the same time that taxpayers not fund payments in excess of those required to offset the nuclear reactor's annual loss.

Following the conclusion of the 4-year award period, the Department will conduct the recapture analysis to

[36] NEI Comments at 13.
[37] PSEG Comments at 14, 24–25.
[38] PSEG Comments at 15.
[39] UCS Comments at 5.
[40] UCS Comments at 10.
[41] CATF Comments at 13.
[42] EPSA Comments at 13.
[43] Guidance at 35.
[44] *Id.* at 34–35.
[45] NEI Comments at 7.
[46] NEI Comments at 7.
[47] UA Comments at 6.
[48] NEI Comments at 12.
[49] NEI Comments at 12.
[50] PSEG Comments at 21–22; Constellation Comments at 5.
[51] Constellation Comments at 6.
[52] UCS Comments at 10. UCS framed this outcome based on the use of an index in performing the annual adjustment calculation.
[53] NRG Energy Comments at 4.
[54] PSEG Comments at 15.

determine if the nuclear reactor would not have operated at an annual loss in the preceding 4-year award period in the absence of the credits that the Department has paid to the owner or operator in accordance with the annual adjustment mechanism. On the terms to be specified in the Award Agreement, the Department will adjust the annual payment based on (i) actual applicable revenues in identified categories compared to the corresponding revenues projected for that award year and (b) actual applicable costs in identified categories compared to the corresponding costs projected for that award year. Operational and market risks monetized by an applicant and reflected in the Award Agreement will not be trued up for actual results. The recapture mechanism will use the same method to determine operating results for the 4-year award period as is used for the annual adjustment, thereby providing appropriate certainty to the nuclear reactor of the method for determining recapture while also meeting the statutory requirement that the Department recapture credits to the extent that the nuclear reactor would not have operated at an annual loss in the absence of those credits.

The Department expects that the annual adjustment mechanism and the contractual obligation of the nuclear reactor to continue operations for the entire 4-year award period will limit the need to recapture credits. Nevertheless, the recapture regulation is required to provide the Department with a remedy to recover credits if the nuclear would not have operated at an annual loss in the absence of an allocation of credits during the 4-year award period. The recapture regulation also addresses the situation where the nuclear reactor ceases operation during the 4-year award period. In that circumstance, the Department will rescind the award of any unpaid credits, including the credits for the award year in which the termination occurred and for any remaining award years in the award period. In addition, the Department will require the owner or operator to repay the value of credits paid with respect to a prior award year if the Department determines that the nuclear reactor terminated operations as a result of the owner or operator's failure to adhere to prudent industry practice in the operation of the nuclear reactor during the award period. Requiring forfeiture of credits previously paid for award years where the nuclear reactor performed as required would not be warranted where the nuclear reactor in a subsequent award year ceased to operate because of a mechanical failure, act of nature, or other event that occurred despite the owner or operator's adherence to prudent industry practice.

IV. Section by Section Analysis of the Interim Final Rule

A. Purpose, Applicability, and Definitions

Section 612.1 of the interim final rule identifies the purpose of the regulations to set forth the procedure by which the Department may recapture credits awarded pursuant to the CNC Program. Section 612.2 provides that the regulations will apply to an owner or operator of a nuclear reactor that is awarded credits under the CNC Program. Section 612.3 contains defined terms used in the regulation.

B. Recapture

Section 612.4(a) of the regulation identifies the two circumstances in which credits will be recaptured: (1) if the nuclear reactor terminates operation during the award period or (2) at the conclusion of the award period if the nuclear reactor would not have operated at an annual loss in the absence of the credits.

Section 612.4(b) addresses the first circumstance in which recapture will be pursued, namely termination by the nuclear reactor of operations during the award period. In that instance, the Secretary will rescind the award of any unpaid credits, including the credits for the award year in which the termination occurred and for any remaining award years in the award period. In addition, the Department will require the owner or operator to repay the value of credits paid with respect to a prior award year if the Department determines that the nuclear reactor terminated operations as a result of the owner or operator's failure to adhere to prudent industry practice in the operation of the nuclear reactor during the award period.

Section 612.4(c) addresses recapture in the circumstance in which the Secretary determines that the nuclear reactor, during the award period, would not have operated at an annual loss in the absence of the credits. To make this determination, the Secretary will calculate the recapture amount in the same manner as the annual adjustment of credits is calculated. Although this scenario is unlikely because the recapture analysis will use the same evaluation methodology as the annual adjustment calculation, it could occur if, for example, subsequent information became available that differs from the data relied on in the annual adjustment calculation.

C. Notice and Reconsideration of Recapture Determination

Section 612.5 of the regulation identifies (1) the manner in which the Secretary will notify an owner or operator of its determination to recapture credits and payments for previously paid credits, if any, (2) how an owner or operator may request reconsideration of the recapture determination, and (3) the effective date of a recapture determination. This section also specifies that notices issued with respect to recapture will be public, except that data and supporting documentation constituting confidential business information will not be disclosed.

D. Petition to the Department's Office of Hearings and Appeals

Section 612.6 provides that an owner or operator of a nuclear reactor that is aggrieved by the Secretary's decision to affirm, withdraw, or modify the notice of recapture as provided in paragraph (c) of § 612.5 may file a petition with the Department's Office of Hearings and Appeals in accordance with 10 CFR 1003.11 not later than thirty days after notification of the Secretary's decision.

V. Interim Final Rulemaking

This interim final rule is being issued without advance notice and public comment to allow for immediate implementation of the CNC Program in accordance with the process described in the Guidance. The requirements of advance notice and public comment do not apply ''to the extent that there is involved . . . a matter related to agency . . . grants, benefits, or contracts.'' 5 U.S.C. 553(a)(2). The CNC Program is a Federal grant or benefit program that awards credits to nuclear reactors that are selected to receive credits based on a demonstration that they are projected to cease operations due to economic factors.[55] No other aspect of the CNC Program requires regulation for implementation other than the discrete recapture provision addressed in this interim final rule.

[55] In addition, IIJA section 40323(e)(1) provides that the Secretary will consult with other Federal agencies and select certified nuclear reactors to be allocated credits, ''notwithstanding section 169 of the Atomic Energy Act of 1954 (42 U.S.C. 2209).'' Section 169 of the Atomic Energy Act states that no funds will be used for the construction or operation of licensed nuclear facilities ''except under contract or other arrangement entered into pursuant to section 2051 of this title.'' Section 2051 establishes requirements for contracts and loans for research activities and grants and contributions. This statutory exception to section 169 of the Atomic Energy Act provides further evidence that Congress understood that the CNC Program created an agency ''grant, benefit, or contract.''

In addition, the Administrative Procedure Act also provides an exception to ordinary notice and comment procedures ''when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(3)(B). This good cause justification also supports waiver of the 60-day delayed effective date for major rules under the Congressional Review Act at 5 U.S.C. 808(2). Although this interim final rule is effective immediately, comments are solicited from interested members of the public on all aspects of the interim final rule. The Department intends to issue a final rule following receipt and review of comments in response to the interim final rule.

VI. Procedural Requirements

A. Review Under Executive Orders 12866, 13563, and 14094

Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993), as supplemented and reaffirmed by Executive Order 13563, ''Improving Regulation and Regulatory Review,'' 76 FR 3821 (Jan. 21, 2011) and amended by Executive Order 14094, ''Modernizing Regulatory Review,'' 88 FR 21879 (April 11, 2023), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. DOE emphasizes as well that Executive Order 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs (OIRA) has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, this proposed regulatory action is consistent with these principles.

Section 6(a) of Executive Order 12866 requires agencies to submit ''significant regulatory actions'' to OIRA for review. OIRA has determined that this proposed regulatory action does not constitute a ''significant regulatory action'' within the scope of Executive Order 12866. Accordingly, this action was not subject to review under that Executive order by OIRA.

B. Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Executive Order 13132 requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. DOE has examined this interim final rule and has determined that it does not preempt State law and does 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. Moreover, the recapture regulation is required by statute. No further action is required by Executive Order 13132.

C. Administrative Procedure Act

The Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.,* generally requires public notice and an opportunity for comment before a rule becomes effective. However, the APA provides that the requirements of 5 U.S.C. 553 do not apply ''to the extent that there is involved . . . a matter relating to agency . . . grants, benefits, or contracts.'' The interim final rule implements the statutory direction to adopt a regulation to recapture credits awarded under the CNC Program and addresses the circumstances under which an owner or operator may forfeit credits for failure to continue to meet the requirements of the CNC Program pursuant to which the nuclear reactor has received credits from the United States. The recapture regulation is thus clearly and directly related to a federal benefits program. See, *e.g., National Wildlife Federation* v. *Snow,* 561 F.2d 227, 232 (D.C. Cir. 1976). See also *Alphapointe* v. *Department of Veterans Affairs,* 475 F. Supp. 3d 1, 13 (D.D.C. 2020) (''the statutory exemption still prevails when 'grants,' 'benefits' or other named subjects are 'clearly and directly' implicated'' (citations omitted)). The regulation sets forth the ''process necessary to maintain . . . eligibility for federal funds'', *Id.,* and other ''integral part[s] of the grant program.'' *Center for Auto Safety* v. *Tiemann,* 414 F. Supp. 215, 222 (D.D.C. 1976).[56] As a result, the requirements of 5 U.S.C. 553 do not apply.

The APA also provides an exception to ordinary notice and comment procedures ''when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(3)(B); *see also* 5 U.S.C. 553(d)(3) (creating an exception to the requirement of a 30-day delay before the effective date of a rule ''for good cause found and published with the rule''). Even if 5 U.S.C. 553 applied, the Department would still have good cause under section 553(b)(3)(B) and 553(d)(3) for not undertaking section 553's requirements. The Department has provided notice and opportunity for comment on the CNC Program and further pre-publication notice and comment is unnecessary. In the RFI, the Department identified the structure of the CNC Program and asked for comment, including on the relationship of the annual adjustment mechanisms with the recapture provision. Numerous commenters addressed both the specific structure of the recapture mechanism, as well as its interaction with the annual adjustment mechanism. This interim final rule in section III of this document addresses relevant comments and explains the decisions that the Department made in preparing the recapture regulation. Although the Department is seeking further comment on this interim final rule, any such comments will be addressed in a subsequent regulation and will not alter the recapture regulation that is

[56] Although the CNC Program is not a grant program under the Federal Grant and Cooperative Agreement Act, 31 U.S.C. 6301 *et seq.,* case law treats Federal grants and benefits broadly for purposes of section 553 of the Administrative Procedure Act.

applicable to credits to be awarded for the first award period.

D. National Environmental Policy Act of 1969

In this interim final rule, DOE establishes the procedure for the recapture of credits awarded under the Civil Nuclear Credit Program. DOE has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, DOE has determined that promulgating procedures for the recapture of credits through administrative and audit procedures is consistent with activities identified in 10 CFR part 1021, appendix A to subpart D, A6. Therefore, DOE has determined that promulgation of the recapture rule is not a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA and does not require an environmental assessment or an environmental impact statement.

E. Paperwork Reduction Act of 1995

This interim final rule imposes no information collection requirements subject to the Paperwork Reduction Act.

F. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment. As discussed above, DOE has determined that prior notice and opportunity for public comment is unnecessary under the APA. Because a notice of proposed rulemaking is not required for this action pursuant to 5 U.S.C. 553, or any other law, no regulatory flexibility analysis has been prepared for this interim final rule. *See* 5 U.S.C. 601(2), 603(a).

G. Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Regarding the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that each executive agency make every reasonable effort to ensure that when it issues a regulation, the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and has determined that, to the extent permitted by law, this interim final rule meets the relevant standards of Executive Order 12988.

H. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b).) UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency to plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. (62 FR 12820) (This policy is also available at *www.energy.gov/gc/office-general-counsel* under ''Guidance & Opinions'' (Rulemaking).) DOE examined this interim final rule according to UMRA and its statement of policy and has determined that the rule contains neither an intergovernmental mandate, nor a mandate 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 in any year. Accordingly, no further assessment or analysis is required under UMRA.

I. Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

J. Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for Federal agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed this interim final rule under the OMB and DOE guidelines and has concluded that it is consistent with the applicable policies in those guidelines.

K. Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the

action and their expected benefits on energy supply, distribution, and use. This interim final rule establishes a procedure to recapture credits awarded under the CNC Program and, therefore, does not meet any of the three criteria listed above. It is not a significant energy action because it would not have a significant adverse effect on the supply, distribution, or use of energy. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Congressional Notification

As required by 5 U.S.C. 801, DOE will submit to Congress a report regarding the issuance of this interim final rule prior to the effective date set forth at the outset of this interim final rule. The report will state that it has been determined that this interim final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

VII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this interim final rule.

List of Subjects in 10 CFR Part 612

Civil nuclear credit program, Nuclear energy, Nuclear power plants and reactors, Petition to the Department of Energy's Office of Hearings and Appeals, Recapture of civil nuclear credits.

Signing Authority

This document of the Department of Energy was signed on December 8, 2023, by Maria D. Robinson, pursuant to delegated authority from the Secretary of Energy. That document with the original signature is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on January 3, 2024.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

For the reasons stated in the preamble, DOE amends chapter II, subchapter H, of title 10 of the Code of Federal Regulations by adding part 612 to read as follows:

PART 612—RECAPTURE OF CIVIL NUCLEAR CREDITS

Sec.

Authority: 42 U.S.C. 7254; 42 U.S.C. 18753.

§ 612.1 Purpose.

This part implements section 40323(g)(2) of the Infrastructure Investment and Jobs Act (Pub. L. 117–58), codified at 42 U.S.C. 18753(g)(2), to set forth the procedure to recapture credits awarded pursuant to the civil nuclear credit program.

§ 612.2 Applicability.

This part applies to an owner/operator of a nuclear reactor that is awarded credits pursuant to the civil nuclear credit program.

§ 612.3 Definitions.

Award period means the period beginning with the first day of the award year for which the owner/operator has been awarded credits up to and including the last day of the fourth award year thereafter.

Award year means a 12-month period beginning on the effective date of the award of credits and each anniversary thereof during the award period.

CNC program means the civil nuclear credit program established by the Secretary pursuant to section 40323 of the Infrastructure Investment and Jobs Act (Pub. L. 117–58) codified at 42 U.S.C. 18753.

Credits means the credits awarded to an owner/operator of a nuclear reactor projected to cease operations due to economic factors and certified by the Department as part of the CNC program.

Department means the Department of Energy.

Nuclear reactor means a nuclear power reactor unit with respect to which an owner/operator has been awarded credits pursuant to the civil nuclear credit program.

Owner/operator means the owner or operator of a nuclear reactor that has been awarded credits pursuant to the civil nuclear credit program.

Secretary means the Secretary of Energy.

§ 612.4 Recapture.

(a) Credits allocated to an owner/operator shall be subject to recapture—

(1) If the nuclear reactor terminates operations during the award period, pursuant to paragraph (b) of this section; or

(2) At the conclusion of the award period, if the nuclear reactor would not have operated at an annual loss in the absence of the credits, pursuant to paragraph (c) of this section.

(b) If the Department determines that a nuclear reactor has terminated operations during the award period, then the Department will recapture the award of credits for the award year in which the termination of operations occurred and for any remaining award years by rescinding the credits awarded but not paid, and the owner/operator shall have no further rights to any credits. In addition, the value of credits that the Department has previously paid to the owner/operator with respect to a prior award year shall be repaid to the Department by the owner/operator if the Department determines that the nuclear reactor terminated operations as a result of the owner/operator's failure to adhere to prudent industry practice in the operation of the nuclear reactor during the award period.

(c) Following the conclusion of the award period, the Department will determine whether, for the award period, the nuclear reactor would not have operated at an annual loss in the absence of the credits. The amount subject to recapture following the conclusion of the award period shall be determined in the same manner that the annual adjustment of credits is calculated under the terms of the award of such credits.

§ 612.5 Notice of recapture; request for reconsideration; effectiveness of recapture.

(a) *Notice of recapture determination.* If pursuant to § 612.4, the Department determines that:

(1) An amount of credits not yet paid should be recaptured; and

(2) That any credits previously paid to the owner/operator should be recaptured, the Secretary will provide to an owner/operator a written notice of the amount of credits subject to the recapture determination and the value of credits that the Department has previously paid to an owner/operator and that are subject to recapture, if any, with an explanation of such amount.

(b) *Request for reconsideration.* Unless the Department extends the time period, within 30 calendar days of receipt of a notice of recapture provided to an owner/operator under paragraph (a) of this section, an owner/operator may submit a written request to the Department requesting reconsideration of the recapture determination. To

request reconsideration of the recapture determination, an owner/operator must submit to the Department a written request that includes:

(1) An explanation of why the owner/operator believes all or some of the credits (and the value of any credits previously paid) should not be subject to recapture; and

(2) Supporting information and calculations.

(c) *Notification of final amount subject to recapture.* Unless the Department extends the time period, within 60 days of receipt of an owner/operator's request for reconsideration provided pursuant to paragraph (b) of this section, the owner/operator will be notified of the Department's decision to affirm, withdraw, or modify the notice of recapture. The notification will include an explanation of the decision, including responses to the owner/operator's supporting reasons and consideration of additional information provided.

(d) *Effectiveness of recapture.* (1) If the owner/operator has not requested reconsideration as provided in paragraph (b) of this section;

(i) The credits will be deemed to be recaptured as of the date of the notification provided by the Secretary pursuant to paragraph (a) of this section and the owner/operator will have no further right or claim to those credits; and

(ii) The owner/operator shall repay to the Department the value of credits that the Department has paid to the owner/operator and that are subject to recapture under § 612.4 within 30 calendar days of the date of notification provided by the Department pursuant to paragraph (a) of this section.

(2) If the owner/operator has requested reconsideration as provided in paragraph (b) of this section;

(i) The credits will be deemed to be recaptured as of the date of the notification provided by the Department pursuant to paragraph (c) of this section and the owner/operator will have no further right or claim to those credits; and

(ii) The owner/operator shall pay to the Department the value of credits that the Department has previously paid to the owner/operator and that are subject to recapture under § 612.4 within 30 calendar days of the date of notification provided by the Department pursuant to paragraph (c) of this section.

(e) *Notice.* Notices issued by the Department under this section shall be made public by the Department, with the exception of any data or supporting documentation constituting confidential business information not subject to disclosure.

§ 612.6 Petition to the Department's Office of Hearings and Appeals.

In order to exhaust its administrative remedies, an owner/operator who is aggrieved by the Secretary's decision to affirm, withdraw, or modify the notice of recapture as provided in § 612.5(c) may file a petition with the Department's Office of Hearings and Appeals in accordance with 10 CFR 1003.11 not later than thirty days after notification of the Department's decision.

[FR Doc. 2024–00153 Filed 1–5–24; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 19 and 109

Notification of Inflation Adjustments for Civil Money Penalties

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notification of monetary penalties 2024.

SUMMARY: This document announces changes to the Office of the Comptroller of the Currency's (OCC) maximum civil money penalties as adjusted for inflation. The inflation adjustments are required to implement the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

DATES: The adjusted maximum amount of civil money penalties in this document are applicable to penalties assessed on or after January 8, 2024 for conduct occurring on or after November 2, 2015.

FOR FURTHER INFORMATION CONTACT: Lee Walzer, Counsel, Chief Counsel's Office, (202) 649–5490, Office of the Comptroller of the Currency.

SUPPLEMENTARY INFORMATION: This document announces changes to the maximum amount of each civil money penalty (CMP) within the OCC's jurisdiction to administer to account for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (the 1990 Adjustment Act),[1] as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Adjustment Act).[2] Under the 1990 Adjustment Act, as amended, federal agencies must make annual adjustments to the maximum amount of each CMP they administer. The Office of Management and Budget (OMB) is required to issue guidance to federal agencies no later than December 15 of each year providing an inflation adjustment multiplier (*i.e.,* the inflation adjustment factor agencies must use) applicable to CMPs assessed in the following year. The agencies are required to publish their CMPs, adjusted pursuant to the multiplier provided by the OMB, by January 15 of the applicable year.

To the extent an agency codified a CMP amount in its regulations, the agency would need to update that amount by regulation. However, if an agency codified a formula for making the CMP adjustments, then subsequent adjustments can be made solely by notice.[3] In 2018, the OCC published a final regulation that removed the CMP amounts from its regulations while updating the CMP amounts for inflation through the notice process.[4]

On December 19, 2023, the OMB issued guidance to affected agencies on implementing the required annual adjustment, which included the relevant inflation multiplier.[5] The OCC has applied that multiplier to the maximum CMPs allowable in 2023 for national banks and Federal savings associations as listed in the 2023 CMP notice [6] to calculate the maximum amount of CMPs that may be assessed by the OCC in 2024.[7] There were no new statutory CMPs administered by the OCC during 2023.

The following charts provide the inflation-adjusted CMPs for use beginning on January 8, 2024, pursuant to 12 CFR 19.240(b) and 109.103(c)(2)

[1] Public Law 101–410, Oct. 5, 1990, 104 Stat. 890, codified at 28 U.S.C. 2461 note.

[2] Public Law 114–74, Title VII, section 701(b), Nov. 2, 2015, 129 Stat. 599, codified at 28 U.S.C. 2461 note.

[3] *See* OMB Memorandum M–18–03, Implementation of the 2018 Annual Adjustment Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, at 4, which permits agencies that have codified the formula to adjust CMPs for inflation to update the penalties through a notice rather than a regulation.

[4] 83 FR 1517 (Jan. 12, 2018) (final rule); 83 FR 1657 (Jan. 12, 2018) (2018 CMP Notice).

[5] The inflation adjustment multiplier for 2024 is 1.03241. *See* OMB Memorandum M–24–07, Implementation of Penalty Inflation Adjustments for 2024, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Dec. 19, 2023).

[6] *See* 88 FR 289 (Jan. 4, 2023).

[7] Penalties assessed for violations occurring prior to November 2, 2015, will be subject to the maximum amounts set forth in the OCC's regulations in effect prior to the enactment of the 2015 Adjustment Act.

for conduct occurring on or after November 2, 2015:

PENALTIES APPLICABLE TO NATIONAL BANKS

U.S. Code citation	Description and Tier (if applicable)	Maximum penalty amount (in dollars) [1]
12 U.S.C. 93(b)	Violation of Various Provisions of the National Bank Act:	
	Tier 1	12,249
	Tier 2	61,238
	Tier 3	[2] 2,449,575
12 U.S.C. 164	Violation of Reporting Requirements:	
	Tier 1	4,899
	Tier 2	48,992
	Tier 3	[2] 2,449,575
12 U.S.C. 481	Refusal of Affiliate to Cooperate in Examination	12,249
12 U.S.C. 504	Violation of Various Provisions of the Federal Reserve Act:	
	Tier 1	12,249
	Tier 2	61,238
	Tier 3	[2] 2,449,575
12 U.S.C. 1817(j)(16)	Violation of Change in Bank Control Act:	
	Tier 1	12,249
	Tier 2	61,238
	Tier 3	[2] 2,449,575
12 U.S.C. 1818(i)(2) [3]	Violation of Law, Unsafe or Unsound Practice, or Breach of Fiduciary Duty:	
	Tier 1	12,249
	Tier 2	61,238
	Tier 3	[2] 2,449,575
12 U.S.C. 1820(k)(6)(A)(ii)	Violation of Post-Employment Restrictions: Per violation	402,920
12 U.S.C. 1832(c)	Violation of Withdrawals by Negotiable or Transferable Instrument for Transfers to Third Parties: Per violation.	3,558
12 U.S.C. 1884	Violation of the Bank Protection Act	356
12 U.S.C. 1972(2)(F)	Violation of Anti-Tying Provisions regarding Correspondent Accounts, Unsafe or Unsound Practices, or Breach of Fiduciary Duty:	
	Tier 1	12,249
	Tier 2	61,238
	Tier 3	[2] 2,449,575
12 U.S.C. 3110(a)	Violation of Various Provisions of the International Banking Act (Federal Branches and Agencies).	55,981
12 U.S.C. 3110(c)	Violation of Reporting Requirements of the International Banking Act (Federal Branches and Agencies):	
	Tier 1	4,480
	Tier 2	44,783
	Tier 3	[2] 2,239,210
12 U.S.C. 3909(d)(1)	Violation of International Lending Supervision Act	3,047
15 U.S.C. 78u–2(b)	Violation of Various Provisions of the Securities Act, the Securities Exchange Act, the Investment Company Act, or the Investment Advisers Act:	
	Tier 1 (natural person)—Per violation	11,524
	Tier 1 (other person)—Per violation	115,231
	Tier 2 (natural person)—Per violation	115,231
	Tier 2 (other person)—Per violation	576,158
	Tier 3 (natural person)—Per violation	230,464
	Tier 3 (other person)—Per violation	1,152,314
15 U.S.C. 1639e(k)	Violation of Appraisal Independence Requirements:	
	First violation	14,069
	Subsequent violations	28,135
42 U.S.C. 4012a(f)(5)	Flood Insurance: Per violation	2,661

[1] The maximum penalty amount is per day, unless otherwise indicated.
[2] The maximum penalty amount for a national bank is the lesser of this amount or 1 percent of total assets.
[3] These amounts also apply to CMPs in statutes that cross-reference 12 U.S.C. 1818, such as 12 U.S.C. 2804, 3108, 3349, 4309, and 4717 and 15 U.S.C. 1607, 1693o, 1681s, 1691c, and 1692l.

PENALTIES APPLICABLE TO FEDERAL SAVINGS ASSOCIATIONS

U.S. Code citation	CMP description	Maximum penalty amount (in dollars) [8]
12 U.S.C. 1464(v)	Reports of Condition:	
	1st Tier	4,899
	2nd Tier	48,992
	3rd Tier	[2] 2,449,575

PENALTIES APPLICABLE TO FEDERAL SAVINGS ASSOCIATIONS—Continued

U.S. Code citation	CMP description	Maximum penalty amount (in dollars) [8]
12 U.S.C. 1467(d)	Refusal of Affiliate to Cooperate in Examination	12,249
12 U.S.C. 1467a(r)	Late/Inaccurate Reports:	
	1st Tier	4,899
	2nd Tier	48,992
	3rd Tier	[2] 2,449,575
712 U.S.C. 1817(j)(16)	Violation of Change in Bank Control Act:	
	Tier 1	12,249
	Tier 2	61,238
	Tier 3	[2] 2,449,575
12 U.S.C. 1818(i)(2) [3]	Violation of Law, Unsafe or Unsound Practice, or Breach of Fiduciary Duty:	
	Tier 1	12,249
	Tier 2	61,238
	Tier 3	[2] 2,449,575
12 U.S.C. 1820(k)(6)(A)(ii)	Violation of Post-Employment Restrictions: Per violation	402,920
12 U.S.C. 1832(c)	Violation of Withdrawals by Negotiable or Transferable Instruments for Transfers to Third Parties: Per violation.	3,234
12 U.S.C. 1884	Violation of the Bank Protection Act	356
12 U.S.C. 1972(2)(F)	Violation of Provisions regarding Correspondent Accounts, Unsafe or Unsound Practices, or Breach of Fiduciary Duty:	
	Tier 1	12,249
	Tier 2	61,238
	Tier 3	[2] 2,449,575
15 U.S.C. 78u–2(b)	Violations of Various Provisions of the Securities Act, the Securities Exchange Act, the Investment Company Act, or the Investment Advisers Act:	
	1st Tier (natural person)—Per violation	11,524
	1st Tier (other person)—Per violation	115,231
	2nd Tier (natural person)—Per violation	115,231
	2nd Tier (other person)—Per violation	576,158
	3rd Tier (natural person)—Per violation	230,464
	3rd Tier (other person)—Per violation	1,152,314
15 U.S.C. 1639e(k)	Violation of Appraisal Independence Requirements:	
	First violation	14,069
	Subsequent violations	28,135
42 U.S.C. 4012a(f)(5)	Flood Insurance: Per violation	2,661

[8] The maximum penalty amount is per day, unless otherwise indicated.
[2] The maximum penalty amount for a federal savings association is the lesser of this amount or 1 percent of total assets.
[3] These amounts also apply to statutes that cross-reference 12 U.S.C. 1818, such as 12 U.S.C. 2804, 3108, 3349, 4309, and 4717 and 15 U.S.C. 1607, 1681s, 1691c, and 1692l.

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2024–00097 Filed 1–5–24; 8:45 am]

BILLING CODE 4810–33–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2022–0925; FRL–10943–02–R9]

Air Quality Implementation Plan; California; Great Basin Unified Air Pollution Control District; Stationary Source Permits

Correction

In Rule Document 2023–27889, appearing on pages 88255 to 88257 in the issue of Wednesday, December 21, 2023, make the following correction:

§ 52.220 Identification of plan-in part. [Corrected]

■ On page 88257, in the second column, beginning on the thirty-fifth line, the entry ''(ii)'' should read ''(i)''.

■ On the same page, in the same column, beginning on the thirty-eighth line, the entry ''(ii)'' should read ''*(1)*''.

[FR Doc. C1–2023–27889 Filed 1–5–24; 8:45 am]

BILLING CODE 0099–10–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[ET Docket No. 18–295 and GN Docket No. 17–183; FCC 23–86; FR ID 190574]

Unlicensed Use of the 6 GHz Band; and Expanding Flexible Use in Mid-Band Spectrum Between 3.7 and 24 GHz

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) builds on the 6 GHz band unlicensed rules by permitting very low power (VLP) devices in the U–NII–5 (5.925–6.425 MHz) and U–NII–7 (6.525–6.875 MHz) portions of the 6 GHz band. The Commission will limit VLP devices to low power levels and subject them to other technical and operational requirements that will permit these devices to operate across the United States while protecting incumbent licensed services that operate in the 6 GHz band from harmful interference. The Commission also takes action in a Memorandum Opinion and Order on Remand that addresses a remand from the United States Court of Appeals for the District of Columbia Circuit concerning an issue raised by television broadcasters. The Commission finds that broadcasters' unsubstantiated claims of interference in the 2.4 GHz

band do not warrant any changes to the 6 GHz rules.

DATES: This final rule is effective March 8, 2024. The *Memorandum Opinion and Order on Remand* in the **SUPPLEMENTARY INFORMATION** is effective February 7, 2024.

FOR FURTHER INFORMATION CONTACT: Nicholas Oros of the Office of Engineering and Technology, at *Nicholas.Oros@fcc.gov* or 202–418–0636.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Report and Order and Memorandum Opinion and Order on Remand,* ET Docket No. 18–295 and GN Docket No. 17–183; FCC 23–86, adopted on October 19, 2023 and released on November 1, 2023. The full text of this document is available for public inspection and can be downloaded at: *https://docs.fcc.gov/public/attachments/FCC-23-86A1.pdf.* Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format) by sending an email to *FCC504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Procedural Matters

Regulatory Flexibility Act. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' Accordingly, we have prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule changes contained in the *Second Report and Order* on small entities. The FRFA is set forth in Appendix C of the FCC document, *https://docs.fcc.gov/public/attachments/FCC-23-86A1.pdf.*

Paperwork Reduction Act. The Second Report and Order does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

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

Accessing Materials. People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Synopsis

1. As discussed in greater detail below, the Commission adopts rules to permit very low power (VLP) devices to operate with up to −5 dBm/MHz effective isotropic radiated power (EIRP) power spectral density (PSD) and 14 dBm EIRP across the U–NII–5 (5.925–6.425 MHz) and U–NII–7 (6.525–6.875 MHz) portions of the 6 GHz band. VLP devices will enable new innovative uses and will provide opportunities to enhance nascent applications, such as augmented reality/virtual reality, in-car connectivity, wearable on-body devices, healthcare monitoring, short-range mobile hotspots, high accuracy location and navigation, and automation. The rules the Commission is adopting are designed to support innovation to bring exciting new applications to market while protecting the important licensed services that operate in the 6 GHz band from harmful interference. At this time, the Commission is limiting VLP devices to the U–NII–5 and U–NII–7 bands because the technical record has mainly focused on the potential for interference to fixed microwave links which are the predominate uses of these portions of the 6 GHz band. The Commission plans on proposing to expand VLP device operation to the U–NII–6 and U–NII–8 portions of the band which support mobile operations.

A. VLP Power Levels and Protection of the Fixed Microwave Services

2. In making this decision to enable this new class of VLP unlicensed devices to operate in the 6 GHz band while protecting licensed incumbent operations from harmful interference, the Commission notes that this policy represents a careful balancing between enabling new services and protecting existing services. In response to comments reflecting incumbents' concerns regarding the potential for harmful interference as well as analysis in the record, the Commission is taking reasonable actions to minimize such potential. The Commission emphasizes the core principle from its *Policy Statement* (FCC 23–27, Apr. 21, 2023) that expresses the notion that data-driven approaches are necessary to promote co-existence. And while the *Policy Statement* generally addresses adjacent channel issues, it notes that many of the technical and policy principles articulated could be applied to co-channel spectrum sharing as well, such as the sharing scenarios in the 6 GHz band. The Commission's decision herein is consistent with its principles. In adopting rules to enable VLP devices to share the 6 GHz band, the Commission has followed this approach in anchoring its decision on an extensive technical record. The Commission recognizes the highly variable nature of the electromagnetic environment and relies on analyses that use a probabilistic approach to evaluating interference risk rather than basing our decision on worst-case examples.

3. In considering the maximum power level for VLP devices, the Commission's goal is to balance competing factors. The Commission aims to permit as much power as possible for these devices so that the maximum benefit can be derived from their operation while minimizing the potential risk of harmful interference to licensed incumbent operations. As described below, the record is replete with many analyses and tests that come to widely different conclusions. These analyses and tests provide a basis for the Commission's understanding of the potential for VLP devices to cause harmful interference under a variety of conditions. As described in detail, the Commission believes based on the technical record that it can permit at this time VLP devices to operate at up to −5 dBm/MHz power spectral density (PSD) and 14 dBm EIRP without presenting a significant risk of harmful interference to the licensed microwave incumbents that share the 6 GHz band.

1. Computer Simulations/Monte Carlo Analysis

4. In considering the technical record, the Commission finds that two computer simulations based on Monte Carlo analysis submitted by Apple, Broadcom, et al. and by Apple provide sufficient support for permitting VLP operation at up to −5 dBm/MHz EIRP power spectral density (PSD) and 14 dBm EIRP across the U–NII–5 and U–NII–7 portions of the 6 GHz band. Relying on computer simulations is in harmony with the Commission's *Policy Statement*'s directive to follow a data-driven approach to spectrum

management rather than placing dispositive weight on worst-case examples that may be rare or never occur in practice. In relying on these computer simulations, the Commission follows the path of its previous decision in adopting rules for unlicensed 6 GHz low-power indoor (LPI) devices. For the LPI rules, the Commission characterized a computer simulation submitted by CableLabs as ''the best evidence in the record of the impact that unlicensed low-power indoor devices will have on incumbent operations.''

5. A well-designed computer simulation can simultaneously model many probabilistic factors that determine whether harmful interference may occur. These factors include VLP device location variability in relation to the microwave receiver, height of the VLP device, whether the VLP device is operating co-channel, the VLP power level, and the radio propagation environment. In examining the potential for harmful interference to occur to microwave links from VLP devices, the characteristics of the microwave links must also be considered. Microwave links use highly directional antennas typically located on tall towers or building rooftops to transmit over distances up to 30 kilometers. Because of the heights of these antennas and their directional nature, VLP devices only present a harmful interference risk if they are located within the main beam of the antenna and are close enough to the microwave receiver that a strong signal can be received. One important factor to consider when modeling interference to 6 GHz microwave receivers is atmospheric multipath fading. Atmospheric multipath fading is caused when stable air masses, such as warm and humid air, lead to stratification of the atmosphere. Atmospheric multipath fades can be very deep—30 dB or more. However, deep fades are rare while more mild fades occur more frequently. For a typical link, fades greater than 30 dB occur, on average, 15 seconds a month while fades greater than 10 dB occur, on average, 37 minutes a month. Because of this fading phenomenon, 6 GHz microwave links are designed with large ''fade margins'' that are typically 25–40 dB. This fade margin provides transmitted power beyond what is needed to maintain the link when no fading is occurring. Thus, the typical microwave link can operate with 5-nines availability (99.999%) despite the presence of fading. Because the links are designed with these large fade margins, even when a VLP device is located directly within the main beam of a microwave antenna at a close enough distance where it might be possible for it to cause harmful interference, the microwave link's operation will not be degraded unless a deep enough fade occurs so that the combination of received signal from the VLP device and fade depth is greater than the link's fade margin. Thus, VLP operation during the more frequent mild fades that occur which only consume a small portion of the fade margin will present only an insignificant harmful interference risk. An examination of the interference potential of VLP devices to microwave links must consider not only the position and transmit power of the VLP devices and the technical characteristics of the microwave links, but also include the effects of fading.

6. A computer simulation submitted by Apple, Broadcom, et al. modeled the effect of VLP devices on two hundred forty-seven (247) fixed microwave links in the San Francisco area. Data from the Commission's licensing database was used to model each microwave link. For each iteration during this simulation, 1,146 VLP devices were randomly placed in the San Fransisco area where the distribution of devices was determined by the population data—*i.e.,* it was more likely that the devices were placed in areas with higher population density. The San Francisco computer simulation indicates that for VLP devices transmitting at −5 dBm/MHz EIRP PSD the probability of the interference to noise power (I/N) ratio exceeding −6 dB was 0.003% and the probability of the I/N exceeding 0 dB was 0.001% over the one million simulation iterations. The simulation specifies that the same probability of exceeding −6 dB I/N results when the VLP PSD is 1 dBm/MHz EIRP, but is correspondingly lower for −8 dBm/MHz and −18 dBm/MHz EIRP PSD levels and higher for the simulations that used 10 dBm/MHz EIRP.

7. In addition to providing statistics on the I/N ratio, the simulation also evaluated the likelihood that the microwave link's fade margin will be exceeded by the combination of the interference power received from the VLP devices and the atmospheric multipath fading. For each of the 247 microwave links in the San Francisco area, the simulation calculated the fade margin by calculating the actual carrier-to-noise (C/N) ratio for the microwave link based on the link's technical parameters and subtracting the C/N ratio needed for the link to operate at the highest data rate listed in the Commission's database for that link. The simulation then determined the probability distribution for the atmospheric multipath fading for each link using the ITU–R P.530–17 model. The simulation then calculated a distribution of the noise floor increase for each link based on the I/N statistics and convolved that with the multipath fading distribution. For VLP devices operating at powers up to 1 dBm/MHz EIRP, the results indicate that the probability of the fade margin being exceeded by the combination of the interference power received from VLP devices plus the multipath fading is not materially different than the probability of the link margin being exceeded solely from multipath fading. According to the simulation results, of the 247 links assessed in the study, the presence of VLP devices transmitting at 1 dBm/MHz EIRP at the ''worst-case'' location for a microwave link would change the probability that the worst-case link will be degraded by 0.3%.

8. The computer simulation submitted by Apple has many similarities to the San Francisco simulation. Apple's simulation modeled VLP to microwave receiver interactions in the Houston, Texas area by modeling a single microwave link while varying the VLP parameters for each simulation run based on the characteristics of microwave links that area. Two hundred twenty-four (224) VLP devices operating at 14 dBm EIRP within bandwidths varying from 20 megahertz to 320 megahertz were randomly placed within 23.49 kilometers of the microwave link on each of 10 million iterations.

9. The Houston simulation found that for VLP devices operating at −5 dBm/MHz EIRP PSD, the −6 dB I/N level was exceeded approximately 0.06% of the time and 0 dB I/N was exceeded approximately 0.01% of the time. For VLP devices operating at 1 dBm/MHz EIRP PSD, the −6 dB I/N level was exceeded approximately 0.085% of the time and 0 dB I/N was exceeded approximately 0.02% of the time. Similar to the San Francisco simulation, the Houston simulation also examined the likelihood that the microwave link's fade margin will be exceeded by the combination of the interference power received from the VLP devices and the atmospheric multipath fading. These results, which were derived for various microwave transmitter heights, show that the presence of VLP devices have no noticeable impact on microwave link reliability compared to atmospheric multipath fading alone. The simulation for the Houston area also indicated that the chance of exceeding −6 dB I/N increased from 0.07% to 0.135% when both VLP and LPI devices were included as compared to just having LPI present. Finally, this simulation also

examined the sensitivity of various inputs to the overall result. Apple claims that the results are sensitive to fixed service receiver antenna height, where higher microwave receiver antenna height above ground level results in a lower potential for impact to the microwave link and that the 35 meter antenna height assumed for the simulation represents a conservative value because such a height is significantly lower than the typical microwave receiver height in the Houston area. Likewise, Apple asserts that the assumed 44 dBi microwave receiver antenna gain and assumed ITU–R F.1245 antenna pattern do not represent typical antenna gains or antenna gain patterns and that more realistic inputs would result in the results showing a lower potential for exceeding −6 dB I/N.

10. AT&T argues that the approximate 0.1% chance that the Houston simulation indicates for the I/N to exceed −6 dB for a VLP device operating at 1 dBm/MHz EIRP PSD implies that 1,300 device deployments in the Houston area would impair the fade margin of a microwave link by more than 1 dB (*i.e.,* produce an I/N greater than −6 dB) at any given moment. This contention is based on several misunderstandings of the Houston Monte Carlo simulation. The approximately 0.1% chance of the I/N being greater than −6 dB means that on 10,000 of these 10 million iterations of the simulation, the calculated I/N at the microwave receiver from all 224 VLP devices was greater than −6 dB; the I/N contribution from any individual VLP device would be much less. As to AT&T's contention that this demonstrates a significant risk to the microwave links, this represents the likelihood that the aggregate signal from all 224 transmitting VLP devices causes the microwave link to receive a signal at greater than −6 dB I/N, which represents a 1 dB reduction in the fade margin of the link. The Commission reiterates that in the *6 GHz Order,* 85 FR 31390 (May 26, 2020), the Commission stated that it was not making a determination that a signal received at greater than −6 dB I/N would constitute ''harmful interference.''

11. These simulations examined the statistical relationship that the combination of the interference power received from VLP devices and atmospheric multipath fading could have on microwave receivers. Both the San Francisco analysis and the Houston analysis considered the summation of microwave receiver noise floor from VLP device transmissions and the occurrence of atmospheric multipath fading. Because atmospheric multipath fading and the signal levels received from the VLP devices are independent phenomenon, in accordance with a well-known statistical theorem the probability distribution of the combination of these two processes is the convolution of the probability distribution of each of the individual processes. The computer simulations used this mathematical convolution process to examine the combination of these two processes and illustrate that the presence of VLP devices does not result in a significant increase in the likelihood that the fade margin of the links will be exceeded by the combination of both atmospheric multipath fading and signals received from the VLP devices. Because the functioning of a microwave link is only interrupted when the combination of multipath fading and received VLP signals exceeds the fade margin, these results show that the presence of VLP devices will not significantly increase the potential for harmful interference to a microwave link over effects due to atmospheric fading alone.

12. AT&T claims the data on fade margin exceedance from the combination of atmospheric multipath fading and VLP devices that the San Francisco Monte Carlo simulation presents is suspect. The Commission believes that Apple, Broadcom, et al. have sufficiently explained how they calculate this data. As they explain, for each link, the available C/N ratio was calculated based on the link's transmitted power, propagation distance, receiver antenna gain, receiver feeder loss, and receiver noise figure and the required C/N ratio was calculated based on the highest order modulation for the link as indicated in the Commission's licensing data. The fade margin is simply the difference between these two C/N ratios. The probability that the fade margin for a link will be exceeded by an atmospheric multipath fade was obtained from ITU–R P.530–17. As to whether some of the link availabilities are excessively low or high, as AT&T claims, the Commission does not find the range of link availabilities indicated by the San Francisco simulation to be unrealistic. As Apple, Broadcom, and Meta indicate, there are many factors that impact the calculated availability of the microwave links. AT&T also suggests that it would be useful for the San Francisco simulation to have listed the links that appear to be more susceptible to VLP interference to help understand what they have in common. Because none of the links appear to have an increased potential for the fade margin being exceeded by the combination of multipath fading and VLP devices operating at the −5 dBm/MHz power level, the information is not necessary to reach a conclusion regarding the potential for harmful interference occurring.

13. For the Commission to have confidence in the results of computer simulations, the assumptions and models that are used must be appropriate. The Commission finds that for both the San Francisco and Houston simulations, the assumptions are not only appropriate, but also represent reasonably conservative estimates of the potential impact on microwave receivers and that using more realistic input assumptions would produce results showing even less potential impact. Nevertheless, the Monte Carlo analyses results are important as they represent an upper bound on what could be expected under real-world conditions with the actual impact likely to be much lower. To reiterate this point, the Commission discusses these assumptions.

14. Each of the simulations randomly distributed a number of VLP devices over the study area for each iteration. The Commission finds that the number of devices placed within the study area for each simulation iteration appears to be based on realistic assumptions. Both simulations assume that all simulated VLP devices will operate outdoors because indoor VLP devices are assumed to not present an interference risk to microwave links. The Commission agrees; such an assumption is consistent with its finding in the *6 GHz Order,* which adopted rules permitting LPI devices to operate with 5 dBm/MHz PSD EIRP and up to 30 dBm EIRP; at least 10 dB more than the Commission is permitting for VLP devices. The San Francisco simulation assumes that for the population within the study area, 6% of people will be outdoors, and that 25% of those people will be using VLP devices. Apple, Broadcom, et al. indicate that 6% is a realistic assumption because EPA and Department of Transportation statistics show that the average American spends 90% of the time indoors and, of the remaining 10%, 4% of the time is spent in vehicles, which leaves 6% with no attenuation of the signal from buildings or vehicles. As this assumption is based on Department of Transportation and Environmental Protection Agency statistics, the Commission finds that it is reasonable. The Commission believes that assuming 25% of people outdoors at any given time will be using a VLP device is a conservative assumption as

even if 25% of the people are simultaneously using devices, many are apt to be operating using licensed spectrum and of the devices operating on an unlicensed basis, they are likely to be spread across the various bands that support unlicensed devices (*e.g.,* U–NII bands 1–5). Apple, Broadcom, et al. acknowledge this by further stating that they assume that 90% of the devices will operate on an unlicensed basis (rather than using licensed spectrum), that 50% of unlicensed devices will be capable of using the 6 GHz band, and that of these devices capable of using the 6 GHz band, 65% will actually be using the 6 GHz band. These appear to be reasonable assumptions. In addition, they assume that VLP devices will actively transmit 2% of the time. While VLP devices are not yet deployed, the Commission finds this assumption reasonable for analytical purposes. Thus, as the number of VLP devices placed in each iteration for the San Francisco simulation appears to be based on reasonable assumptions, the Commission concludes that placing 1,146 devices per iteration was appropriate to model the interference potential of VLP devices.

15. Apple placed 224 VLP devices during each iteration for its Houston area analysis. This number was based on a set of assumptions about VLP device use appear to be reasonable. The analysis places all 224 VLP devices around a single microwave receiver resulting in a similar device density per microwave receiver for I/N computation as the 247 microwave receivers simulated in the San Francisco simulation; noting that the reported I/N for each analysis iteration is an aggregate of the individual I/Ns calculated for each device in that iteration. Even with a similar device density, the Commission finds that the fact that the Houston results show a 20 times increase in the potential for a VLP device to exceed −6 dB I/N is not cause for concern regarding an increase in the potential for actual harmful interference. The I/N probabilities calculated from the Houston analysis results from a worst-case analysis designed to ensure that any possible microwave receiver configuration is accounted for while the San Francisco analysis was predicated on the actual microwave receiver layout and characteristics from the Universal Licensing System (ULS) for that market and thus reflects a more real world analysis. Moreover, the Houston analysis assumed that every VLP device was operating co-channel with the microwave receiver. This situation is unlikely to occur under actual operating conditions. Second, the propagation models estimate clutter losses based on the mean for various statistical categories and are likely to underestimate these losses, especially in cities where tall buildings and urban canyons are likely to block signals from microwave receivers. Third, from a purely mathematical standpoint, it stands to reason that the more devices that are randomly placed around a microwave receiver, the greater the likelihood that the signal level received at the microwave receiver may exceed the interference protection criterion. However, as the Commission believes that the number of VLP devices used in each simulation run for Houston was higher than what would be reasonably expected under actual operating conditions, the Commission believes that the results similarly overestimate the actual number of devices that would exceed −6 dB I/N. And even if the results from the San Francisco and the Houston analyses represent lower and upper bounds, these percentages are sufficiently low as to pose an insignificant risk of harmful interference to microwave links. And fourth, as noted in the *6 GHz Order* and herein, −6 dB I/N is an interference protection criterion and exceeding that metric does not in and of itself represent harmful interference as microwave links are designed with significant fade margin. Lastly, many microwave links rely on multiple receive antennas that are physically separated from one another to provide spatial diversity as a method to mitigate multipath fading. This will make the receivers even more resistant to multipath fading meaning that the likelihood that the fade margin will be exceeded by the combination of fading and VLP interference is even lower than is indicated by the simulation.

16. AT&T points out that for many VLP device use cases there will be at least two and maybe more VLP transmitters exchanging data at the same location. The Commission agrees with AT&T that many VLP device use cases, such as body worn devices and mobile hotspots, involve communication between multiple VLP devices. However, only one of these devices will be transmitting at a time. Furthermore, such usage will usually involve devices located in close proximity, in many cases on the same person's body, sharing the same channel through intermittent transmissions. Thus, these multiple devices can appropriately be considered a single device within the simulation. Moreover, if multiple proximate devices communicate over different channels, then only one of the simulated devices would be co-channel with a given microwave receiver, negating it from consideration within the simulation. Therefore, the Commission does not agree with AT&T that it is necessary for multiple proximate VLP devices communicating with each other to be specifically modeled by the simulations as such use is implicitly accounted for.

17. One of the key parameters in computer simulations is the propagation model used to calculate the signal level received by the microwave receivers from the VLP devices. The Houston simulation uses the exact propagation models that the Commission specified for the automated frequency coordination (AFC) systems that manage access to 6 GHz band spectrum by standard power access points, while the San Francisco simulation departs slightly from this framework. As the Commission concluded that these models are appropriate in preventing harmful interference from standard power devices in this band, the Commission agrees that these models are appropriate for a computer simulation for VLP devices. The San Francisco simulation departs from the Commission's AFC rules. As the difference in the propagation models used in the San Francisco simulation and the Commission's AFC rules produces a more conservative result—*i.e.,* overpredict the possibility of interference—they are not only appropriate for evaluating the potential for exceeding −6 dB I/N, but also act to overprotect microwave receivers beyond the limits the Commission deems appropriate in its rules.

18. Another input modeled within the simulations was attenuation to account for ''body loss'' due to scattering and absorption from a VLP device operating on or near a body or other object (*e.g.,* a VLP device placed on a table). As VLP devices are envisioned to generally be small form factor body worn type devices or devices used in close proximity to people, this is an appropriate input for analysis. Body loss is a random variable and subject to variation due to a multitude of factors, such as whether a device is body-worn or not, what part of the body it is worn on, body type, and whether it is in a pocket. Thus, a body loss value for analytic purposes must reflect not just the body loss itself, but also the wide range of values possible, the varying behavior of VLP device users, and the variety of uses for which VLP devices may be employed. Considering the data placed on the record reflecting widely

varying levels of body loss under different conditions, as well as the general consensus among studies relied on by other regulators, the Commission finds that the computer simulations' assumptions that there would be a mean attenuation of 4 dB for body and/or clutter loss and that this would follow a gaussian distribution is appropriate. The Commission believes that this is a reasonable approach as it is in the range specified by many commenters, is consistent with the measurements made by Meta, and is consistent with what was used by the International Telecommunication Union (ITU) and the European Conference of Postal and Telecommunications Administrations' (CEPT) Electronic Communications Committee (ECC) for interference analysis. While many commenters put data on the record purporting to show losses greater than 4 dB, the Commission notes that this data also shows, in some instances, losses less than this value.

19. Because VLP devices are anticipated to be worn across a wide range of positions on the body or placed on a wide range of surfaces, the Commission believes that use of a gaussian distribution with a 4 dB mean as used by the computer simulations captures the wide range of use cases described by VLP proponents and is appropriate for analytical purposes. Gaussian distributions are commonly used to represent random processes that vary over a range such as far-field body loss. Considering that the body loss measurements submitted by Apple, Broadcom, et al. and Meta have a mean higher than 4 dB and some measured attenuations were much greater than the then 8 dB maximum of the truncated distributions used in the simulations, use of these distribution appears to be a conservative assumption. The Commission does not find merit in AT&T's criticism of the body loss distribution used by the simulations as not being justified or being ''abnormally'' truncated to plus/minus one standard deviation. While AT&T implies the distribution must be ''justified,'' it does not provide any information on what such a justification may entail or how body loss should otherwise be modeled. Use of a truncated distribution is reasonable as this prevents the distribution from unrealistically including a body loss less than 0 dB or incorporating very high body loss values (more than one standard deviation from the mean) which could be viewed as outliers and not realistic while maintaining the 4 dB mean.

20. Both computer simulations assumed that 90% of VLP devices would operate at a 1.5 meter height above ground level. As the simulations are only modeling outdoor VLP devices, the VLP devices that are at greater heights will represent use on building balconies and rooftops. The Commission agrees with Apple, Broadcom, et al. that, assuming that 10% are at heights greater than 1.5 meters appears to be a conservative assumption. For those 10% of VLP devices that are assumed to be above 1.5 meters, both simulations base the height of the device on data for building heights in the cities they are modeling. The Commission concludes that this is a reasonable approach to modeling the VLP device heights.

21. Both simulations used the ITU–R F.1245 antenna pattern to model microwave receiver antennas. This ITU recommendation provides an average antenna pattern to be used in interference assessments. AT&T criticizes the simulations for not using actual antenna patterns for the antennas specified in the Commission's licensing database and suggests that if the actual antenna patterns are not used that ''a better choice would have been to base the antenna pattern on F.699 and the FCC antenna mask in Part 101.115 as has been agreed within the WinnForum'' for the AFC specification.

22. Given that the actual antenna model is not specified for many of the microwave link licensing records in the Commission's ULS database and the added complexity of obtaining and integrating into the simulation antenna patterns for microwave links where the antenna pattern is known, the Commission appreciates why the simulations did not use actual antenna patterns. In addition, as the Houston simulation did not model specific microwave links, using a particular actual antenna pattern would have been completely arbitrary. The Commission does not believe the Monte Carlo simulations using a different antenna pattern than the WinnForum AFC specification detracts from the simulation's accuracy for two reasons. First, because ITU–R F.699 is based on the peak envelope for the side lobes it will overestimate the level of interference from signals received in the side lobes because most actual antennas will have lower side lobe gain. ITU–R F.1245, which is based on the average side lobe levels for microwave antennas, appears to be a more appropriate choice given that the purpose of a Monte Carlo simulation is to determine the typical level of interference experienced by microwave receivers and that the simulations are summing the signals received at the microwave antenna at different arrival angles from multiple VLP devices. Second, the WinnForum AFC specification appears to use a mask based on § 101.115 of the Commission's rules for the side lobes because this permits use of different levels of attenuation for different categories of microwave antennas for angles of arrival outside the main beam of the antenna. Because the goal of the AFC systems is to protect specific fixed microwave receivers from harmful interference from standard power unlicensed devices, trying to more closely match the characteristics of particular classes of antennas is important for this purpose. In a Monte Carlo simulation the goal is to obtain overall statistics on the likelihood of occurrence of harmful interference to all the microwave links rather than determining exclusion zones around specific microwave receivers. Hence, trying to match the characteristics of individual antennas is of less importance. For this purpose, the Commission believes that use of the ITU–R F.1245 pattern, which represents an ''average'' antenna pattern, is a reasonable alternative to using the actual antenna patterns or to following the approach used in the WinnForum AFC specification.

23. AT&T also criticizes the Houston simulation for not using the actual microwave link data available in the Commission's ULS licensing database and instead using different antenna heights and either a 44 dBi antenna gain or antenna gains selected from a distribution whose source was unspecified. While the San Francisco simulation used the data from the ULS for each individual link, the Houston simulation took a different, yet also valid, approach in which it simulated both the range of microwave receiver characteristics (antenna gain, antenna height, etc.) and VLP parameters over 10 million iterations to determine the probability of exceeding −6 dB I/N for any potential VLP to microwave receiver configuration. Contrary to AT&T's assertion, the parameters the Houston simulation used are based on distributions taken from the Commission's ULS licensing database for the Houston market and are based on real-world data representative of the Houston area. By choosing a microwave antenna height at the 10-percentile and a microwave antenna gain at the 90-percentile for the Houston market, the Houston simulation represents a conservative estimate of the potential for harmful interference to occur to microwave links from VLP devices in

the Houston area. While the Commission believes the more complex approach taken by the San Francisco simulation does have some advantages over the approach taken in the Houston simulation, the Houston simulation is a reasonable approach for assessing VLP device operation in the Houston market.

24. The San Francisco simulation used an antenna pattern for all VLP devices that is based on a model of consumer Wi-Fi devices developed by the CEPT SE45 working group. The Houston simulation used an antenna pattern for client devices from the ECC 302 report, which examined the interference potential of unlicensed 6 GHz devices. AT&T states that it has ''previously shown that assumptions made in simulations by [proponents of VLP devices] rely on inaccurate antenna patterns and illogical assumptions regarding [device] positioning.'' In making this broad statement, AT&T refers to its previous discussion of a Monte Carlo simulation for LPI devices conducted by CableLabs. The Commission does not believe AT&T's concerns have validity for the two simulations under consideration here. The Commission finds each of these studies provide independent grounds for its conclusions.

25. Transmit power control is another important parameter that VLP devices will use and was appropriately included in the analyses. For transmit power control the San Francisco simulation used a gaussian distribution with a mean and standard deviation of 3 dB that is truncated at 0 and 6 dB. The Houston simulation used a gaussian distribution with 7 discrete steps from 0 to 6 dB for transmit power control. The Commission believes that transmit power control is likely to be implemented for most VLP devices, such as body worn devices, to save battery power. Consequently, modeling the transmit power control as a random variable in the computer simulations is appropriate. Given the ITU resolution and ECC regulation requiring an average power reduction of 3 dB from transmit power control for U–NII–2A and U–NII–2C devices and that the Commission previously required that U–NII–2A and U–NII–2C devices have the capability for at least 6 dB transmit power control, the Commission believes that the distributions used in the San Francisco and Houston simulations are reasonable approximations for the amount of transmit power control VLP devices are likely to employ for VLP devices.

26. The Houston simulation used a noise figure of 5 dB and a feeder loss of 1.3 dB for the microwave receivers. AT&T claims that the 5 dB noise figure is ''larger than typical'' and suggests that using 4 dB for U–NII–5 and 4.5 dB for U–NII–7 microwave receivers, as in WinnForum's functional requirements document for AFC systems, would be a better choice. AT&T also claims that a 1.3 dB feeder loss may not be appropriate for all cases as many microwave radios are mounted directly to the antenna and have no feeder loss. Apple, Broadcom, and Meta have indicated that the simulation used 2 dB for waveguide feeder loss and 5 dB for the noise figure. While the Commission agrees with AT&T that the noise figure numbers from the WinnForum AFC specification would have been a better choice than the 5 dB that both simulations used, this up to 1 decibel difference is not significant enough to make an appreciable difference in the simulation results. For feeder loss, when no feeder loss is available in the Commission's ULS database and the type of microwave radio is known, WinnForum's AFC specification document indicates that a value of 3 dB be used for radios that are identified as indoor units while no feeder loss should be used for outdoor units. Hence, according to WinnForum's AFC specification, a 1.3 dB or 2 dB feeder loss would be too large for an outdoor radio and too small for indoor radio. As these simulations are designed to model the potential for harmful interference to occur to microwave links in general rather than explore the interference risk of a particular microwave receiver, the Commission believes that employing such an ''in-between'' value for feeder loss is a reasonable approach for a Monte Carlo simulation.

27. In sum, the Commission's review of Apple, Broadcom, et al.'s San Francisco Monte Carlo simulation examining the potential for VLP device interaction with microwave links and the similar Apple simulation for Houston provide a solid basis for concluding that VLP devices can coexist with incumbent services in the 6 GHz band with an insignificant potential for causing harmful interference. In fact, as noted, the Commission believes that the assumptions and thus, the results, err on the side of caution, are conservative, and overestimate the potential for any given VLP device to exceed −6 dB I/N. The worst-case operating scenario occurs when the VLP device is in the main beam of a microwave receiver, at close distance, operating co-channel to the microwave receiver, and not significantly attenuated by terrain, body loss, or blocked by buildings, which is an event that the simulations show will be a rare occurrence.

2. Power Level for VLP Devices

28. The computer simulations show virtually no impact on the microwave links even for VLP devices operating at 1 dBm/MHz EIRP PSD—the Houston and San Francisco simulations indicate that a −6 dB I/N event occurs only at either 0.06% or 0.003% of the time, respectively. The San Francisco results show an identical outcome for VLP devices transmitting at −5 dBm/MHz PSD and for the Houston simulations, a slight decrease in occurrences that −6 dB I/N may be exceeded. Thus, as a conservative initial approach for permitting VLP devices to operate in the U–NII–5 and U–NII–7 portions of the 6 GHz band, the Commission will limit them to a maximum of −5 dBm/MHz PSD EIRP and 14 dBm EIRP at this time. The Commission believes the conservative nature of the analyses resulting in extremely low probabilities for exceeding −6 dB I/N justify this approach which balances the need to provide enough power for VLP devices to ensure manufacturers can provide useful devices with the requirement to protect licensed incumbent operations from harmful interference. This approach recognizes, as pointed out by licensed incumbents, that there are locations where VLP devices operating at these power levels could result in a signal with I/N ratios that may exceed −6 dB I/N. However, Apple, Broadcom, et al. and Broadcom argue that the risk of exceeding that interference protection criterion is low at even higher power levels. Therefore, the Commission believes that it is appropriate to be conservative at this time and permit the VLP devices to operate at no more than −5 dBm/MHz EIRP PSD. The Commission also limits total EIRP to no more than 14 dBm consistent with Apple, Broadcom, et al. and other VLP proponents' comments. While there may be some worst-case locations where harmful interference is possible, the Commission finds the overall risk insignificant. In addition, because (i) the Commission is concluding that VLP devices can operate at −5 dBm/MHz EIRP PSD with an insignificant potential of causing harmful interference to incumbent operations, and (ii) VLP devices are inherently mobile, communications between two VLP devices present no more harmful interference risk than a VLP device communicating with an access point. Thus, the Commission will permit VLP devices operating at this PSD level to directly communicate with each other. The Commission is examining additional steps that it could take to provide additional power or operating

flexibility to VLP devices. However, given that no VLP devices have yet to be deployed, the Commission believes limiting operation to no more than −5 dBm/MHz EIRP PSD is appropriate at this time. Given the conservative PSD limit the Commission is adopting, we are confident that the harmful interference risk is insignificant.

29. Southern Company cautions that to the extent the Commission is relying on computer simulations to inform its decisions for the 6 GHz band, it should require the underlying algorithms used by the simulation to be disclosed to all stakeholders consistent with the Commission's *Policy Statement* on spectrum management. The Utilities Telecom Council (UTC) et al. express similar views, arguing that 6 GHz band unlicensed use proponents relied on simulation information that is not reproducible by any party and that others have not been given the opportunity to review or fully understand the data and simulation methodology. In addition to echoing these views, AT&T suggests that the Commission should require the simulation code to be released consistent with the Commission's *Policy Statement* and the practices of NTIA, which released similar software for evaluation of 3.1 GHz network deployments. Both AT&T and Southern Company also criticize the Commission for not conducting its own computer simulations and instead relying on those submitted by interested parties.

30. While Apple, Broadcom, et al. and Apple have not made their simulation code or the resulting raw data produced by the simulations publicly available, the Commission believes that they have provided sufficient information for knowledgeable engineers to understand the algorithms and models used in the simulations. Both Apple, Broadcom, et al. for the San Francisco simulation and Apple for the Houston simulation provided filings detailing the significant simulation assumptions. Apple has indicated that its simulation was prepared using the widely available and well understood Spectrum Engineering Advanced Monte Carlo Analysis Tool (SEAMCAT) simulation tool, while Apple, Broadcom, et al. indicated that its simulation was implemented using the C++ programming language using well-established Monte Carlo simulation techniques. Through these filings to the record, the Commission believes that Apple, Broadcom, et al. and Apple have provided enough technical details that engineers experienced in radio propagation modeling and coexistence analysis would be able to conduct identical simulations and obtain consistent results. Furthermore, the Commission observes that it is noteworthy that no opponents of VLP deployment have conducted their own simulations to confirm or refute the results. The Commission has no statutory obligation to conduct or commission [its] own empirical or statistical studies. The Commission therefore concludes that the results presented in the filings are adequate to inform its decision. The Commission's decision to authorize VLP devices will encourage innovative methods of using the 6 GHz band and the Commission is exercising its technical judgment in relying on the simulations from Apple, Broadcom, et al. and Apple in reaching this decision. The Commission notes that parties opposing its low-power indoor (LPI) rules raised a similar concern in a challenge to the previously adopted 6 GHz unlicensed rules in the United States Court of Appeals for the District of Columbia Circuit regarding a computer simulation conducted by CableLabs on which the Commission relied. The court rejected that challenge noting that ''requiring agencies to obtain and publicize the data underlying all studies on which they rely would be impractical and unnecessary.'' In accordance with this established precedent, the Commission finds that Apple, Broadcom, et al. and Apple provided ample information on the record such that any interested party could undertake similar analyses and that opponents' challenge on this point is meritless.

31. *Fade margin infringement.* The Fixed Wireless Communications Coalition (FWCC) expresses a strong opinion that unlicensed devices should not be permitted to infringe on the fade margin of microwave links. FWCC claims that it has ''shown that interference from unlicensed (RLAN) operations will cut into the fade margin and leave FS systems vulnerable to data loss and outages.'' FWCC claims that because adding fade margin is expensive, system designers build only the necessary minimum, with a small safety margin, and that any unlicensed interference that encroaches into a microwave link's fade margin will reduce the link reliability.

32. As the Commission stated in the *6 GHz Order* which authorized LPI devices, it ''is not required to refrain from authorizing services or unlicensed operations whenever there is any possibility of harmful interference.'' Instead, ''the Commission may authorize operations in a manner that reduces the possibility of harmful interference to the minimum that the public interest requires, and it will then authorize the service or unlicensed use to the extent that such authorization is otherwise in the public interest.'' There is no prohibition in either previous Commission decisions or legal precedents on the Commission adopting rules that permit VLP devices to occasionally infringe upon the fade margins of microwave links. Instead, the Commission's responsibility is to ensure that the operation of the VLP devices might only impose an insignificant risk of harmful interference occurring to the microwave links to the minimum that the public interest requires. The Commission believes based on the computer simulations, which take into account both the technical characteristics of actual microwave links and reasonable technical assumptions for VLP devices, that the Commission's decision is within the bounds of this principle. Furthermore, noting that the 6 GHz band is populated by both microwave licensees representing commercial and public safety interests, the Commission observes that there is no appreciable difference between the systems operated by those different entities and finds that the rules we are adopting protects both commercial and public safety microwave systems in a comparable manner. Finally, the Commission reiterates that in its recent *Policy Statement,* the Commission noted that ''zero risk of occasional service degradation or interruption cannot be guaranteed'' whether from natural events or other spectrum users.

3. Fixed Infrastructure Prohibition

33. As suggested by Apple, Broadcom, Google, and Meta, the Commission is prohibiting VLP devices from operating as part of a fixed outdoor infrastructure. The Commission notes that no commenters have opposed us adopting this prohibition. This measure is being adopted as an additional means of protecting incumbent operations to ensure that all VLP devices are subject to body and/or clutter loss, to add additional assurance that the simulation assumption that most outdoor devices will operate at 1.5 m above ground level is correct, and to force all devices to be itinerant consistent with the VLP devices simulated in the Monte Carlo analyses. Thus, VLP devices will be prohibited from attaching to outdoor infrastructure, such as poles or buildings, that would make any instances of potential interference more than fleeting. In addition, device mobility results in devices, even if remaining in a general location, constantly changing their orientation due to even subtle body movements.

Such movements can result in widely varying VLP signal levels in any given direction. Thus, the maximum VLP signal level, which is likely to be less than the maximum the Commission's rules permit for a device in the worst-case location and operating co-channel to a microwave system, may only be oriented toward a microwave receiver for a short period of time, which also serves to keep the potential for causing harmful interference to a minimum.

4. Transmit Power Control Requirement

34. The Commission is adopting a requirement that VLP devices employ a transmit power control mechanism that has the capability to operate at least 6 dB below the −5 dBm/MHz EIRP PSD level permitted for VLP devices. Both computer simulations, which the Commission have concluded is the best evidence that the potential for VLP devices to cause harmful interference is insignificant, assume that VLP devices would operate with a transmit power control mechanism with a range up to 6 dB and a mean power reduction of 3 dB. To ensure that actual VLP devices operate consistent with the simulations on which its relying, the Commission adopts this provision to provide confidence that such devices do indeed operate using transmit power control. The Commission is not placing any specific requirements in its rules as to how the VLP device transmit power control algorithm will function, but proof of such functionality must be provided with a device's application for equipment certification. The Commission does not expect that placing this transmit power control requirement will present an undue burden on device manufacturers as such functionality is routinely included in battery-powered device design to conserve battery power. In this connection, Broadcom states that transmit power control is enabled in 100% of its portable products. In addition, Apple, Broadcom, Google, and Meta jointly suggested that the Commission adopt a VLP device transmit power control requirement that would require such devices to reduce their PSD by 3 dB on average. No commenters have opposed us mandating that VLP devices employ a transmit power control mechanism. While AT&T advocates that any limitation on VLP device use that was assumed in the computer simulations, such as average power due to transmit power control, should be subject to a specific rule, the Commission notes that it's adopting a rule requiring VLP devices to have transmit power control capability to reduce power by at least 6 dB. While the exact power distribution that VLP devices will use is unknown at this time, the Commission believes this requirement is reasonable given the diversity in propagation environments in which VLP will operate.

5. Equipment Compliance and Enforcement Matters

35. Consistent with the requirements for most other unlicensed transmitters, the Commission requires 6 GHz VLP transmitters to be approved under the Commission's certification procedure. This procedure requires that the equipment be tested by an accredited laboratory and approved by a designated Telecommunication Certification Body (TCB) to ensure that the equipment complies with all requirements that the Commission is adopting, *e.g.,* maximum power (EIRP and PSD), transmit power control, contention based protocol, which are designed to ensure that the risk of harmful interference to licensed incumbent services is insignificant. As a general matter, only 6 GHz VLP devices certified as compliant by a TCB will be permitted to be imported into and marketed and operated within the United States.

36. For reasons discussed throughout the Report and Order, the Commission is confident that the risk of harmful interference to licensed incumbent services is insignificant, based on the VLP technical rules adopted herein and on the compliance measures in place under the its equipment authorization rules. The Commission also emphasizes that 6 GHz VLP devices, like other part 15 devices, are not permitted to cause harmful interference and that any such interference is actionable for enforcement purposes. Section 15.5(b) of the Commission's rules provides that ''[o]peration of an intentional, unintentional, or incidental radiator is subject to the condition[ ] that no harmful interference is caused.'' In the unlikely event that harmful interference does occur due to VLP operations, § 15.5(c) of the Commission's rules provides that ''[t]he operator of a radio frequency device shall be required to cease operating the device upon notification by a Commission representative that the device is causing harmful interference,'' even if the device in use was properly certified and configured, and that ''[o]peration shall not resume until the condition causing the harmful interference has been corrected.'' Although UTC asks the Commission to ''propose processes and procedures for the identification, reporting and resolution of interference from unlicensed operations as part of [future rulemaking],'' the Commission already have processes and procedures in place under which the Enforcement Bureau investigates complaints of harmful interference and takes appropriate enforcement action, as necessary. These processes and procedures have been effective in identifying and resolving harmful interference to licensed operations in other situations and are available for use in the 6 GHz band as well.

37. Parties that believe particular 6 GHz VLP devices are not compliant with the Commission's rules or are causing harmful interference to licensed incumbent services can contact the Enforcement Bureau, which will address any rule violations, such as impermissible operations or marketing of non-compliant devices, as appropriate.

6. Cumulative Effect of Different Classes of Unlicensed Devices

38. AT&T contends that 6 GHz unlicensed devices have been modeled under the erroneous presumption that each type of device—standard power, LPI, and VLP—can interfere with microwave links up to a threshold of −6 dB I/N, but as there is only one −6 dB I/N margin, the modeling must account for consumption of that margin by all three types of devices. AT&T points out that no computer simulation models the combined impact of all these different types of unlicensed devices. AT&T points to the CEPT computer simulation that addressed 6 GHz devices that did not include standard power devices, simulated LPI devices at a lower power level than the Commission's rules permit, and only assumed 1% of devices located outdoors as illustrating the error in the VLP proponents reasoning.

39. As the Commission stated above, typical microwave link architecture results in 6 GHz band unlicensed devices only presenting a potential interference risk if they are in the microwave antenna's main beam at a close enough distance that a signal of sufficient strength will be received. The AFC systems that control standard power access points' spectrum access will prevent those devices from operating at locations where they present a risk of causing harmful interference. Therefore, the Commission does not believe that it is necessary for unlicensed proponents to provide a study that jointly considers the potential for harmful interference from the cumulative effect of standard power devices and other types of unlicensed 6 GHz devices. Regarding VLP and LPI devices, the Commission again points out that Apple's Monte Carlo analysis

for devices operating in the Houston areas included results for the additive effect of LPI and VLP devices and concluded that the likelihood that there was no material effect on potential microwave degradation due to the presence of both the LPI and VLP devices.

7. Request for Higher Power

40. While supporting comments advocating for a 14 dBm EIRP power level, a subset of VLP device advocates point out that allowing even higher power would enable VLP devices to communicate with higher order modulation, which would enable higher throughputs and lower latencies and request that the Commission authorize up to 21 dBm EIRP. They claim that the 14 dBm EIRP power level would be insufficient for untethered augmented reality/virtual reality, remote surgery, data center wireless flyways, educational applications requiring transmitting high resolution materials, and other demanding applications. They point to the computer simulation conducted by RKF to claim that operation at this power level would not cause harmful interference to licensed stations.

41. As these commenters also support the more modest 14 dBm EIRP power level and the applications cited are more speculative than those generally cited as other use cases for VLP devices, the Commission declines to permit additional power for VLP devices at this time. The Commission also observes that devices delivering many of the cited applications, such as remote surgery, necessitate indoor operation and can be conducted under the LPI device rules that already permit more power than the Commission is permitting for VLP devices. Much of the Commission's decision is based on the computer simulations that are based on a maximum 14 dBm EIRP power level. Due to the undeveloped record on operations with up to aa 21 dBm EIRP, the Commission declines to permit VLP devices to operate at greater than 14 dBm EIRP. The Commission does not plan on seeking comment, however, on whether we can, under certain circumstances, increase the VLP power level without increasing the harmful interference risk to incumbent operations.

8. Request for Lower Power

42. The Ultra Wide Band (UWB) Alliance expresses concern that VLP devices will radiate power uniformly in all directions even though they likely only need the maximum power in a specific direction and that this will result in unnecessary interference to other receivers, including other VLP devices. To address this issue, it suggests that VLP devices meet one of two alternate power limits: (1) a −32 dBm power spectral density with a peak power of 0 dBm; or (2) a −8 dBm power spectral density that is reduced by 2 dB for every dB that the antenna gain is less than 12 dBi as well as a peak power of 14 dBm that is reduced by 2 dB for every dB that the antenna gain is less than 7 dB. The UWB Alliance also suggests that dynamic transmit power control be required for VLP devices as the power needed for on-body locations can vary from nearly free space to over 70 dB. Other commenters such as Nokia, the National Association of Broadcasters (NAB), and AT&T suggest that we only permit VLP if we limit such devices to much lower power than what the Commission proposed.

43. While several commenters request that the Commission only permits VLP devices to operate at lower power, for the reasons already articulated we decline to do so. First, the Commission concludes based on the computer simulations that VLP device operation at −5 dBm/MHz PSD will only pose an insignificant risk of harmful interference to incumbent operations. Additionally, the Commission appreciates the UWB Alliance's concern for improving spectrum efficiency and reducing the potential for interference by proposing rules that would incentivize the use of directional antennas. However, the Commission agrees with Apple, Broadcom, et al. that directional antennas are likely infeasible for small form factor portable devices, particularly when the device's orientation is constantly changing. The Commission does not believe that it would be appropriate to adopt rules that would likely make it impractical to manufacture devices for many of the proposed VLP use cases, such as small portable body-worn devices. As for the UWB Alliance's suggestion to require dynamic transmit power control, as explained above, the Commission is adopting such a requirement on VLP devices. Second, the Commission does not believe that tying the power level for VLP devices to the power levels for low-power indoor devices, as NAB and AT&T suggests, is appropriate, given the fundamental differences between these device classes. VLP devices will inherently be mobile rather than stationary like LPI access points, have smaller form factors, less efficient antennas due to the small form factors, and operate at low power levels to conserve battery. Finally, as the Commission specified in the *6 GHz Order,* ultra-wideband and wideband devices operate under part 15 unlicensed rules, and providing specific accommodations would effectively provide those devices with a level of interference protection to which they are not entitled. Consequently, the Commission believes that the −5 dBm/MHz PSD EIRP and maximum 14 dBm EIRP are appropriate and will result in widespread coexistence within the 6 GHz band among the various devices that operate there. Thus, the Commission is not persuaded to reduce VLP device utility by artificially restricting their power levels to even lower levels.

9. VLP Devices and the AFC

44. Many microwave incumbents advocate that VLP devices should be required to use an AFC system to control spectrum access based on their potential to cause harmful interference to microwave receivers. As the Commission concludes that the risk of harmful interference from VLP devices operating at −5 dBm/MHz is insignificant, the use of AFC systems to control spectrum access by VLP devices is unnecessary. Thus, the Commission sees no reason to impose such a requirement on VLP devices. While there is dispute on the record as to how much it would cost to impose AFC control on VLP devices, there clearly is some cost to imposing such a requirement without a requisite benefit. Furthermore, there will likely be some VLP devices, such as laptop computers that do not have geolocation capabilities and requiring such devices to operate under AFC control would limit the utility of the VLP rules. In addition, neither the standard power or LPI rules support the highly mobile applications envisioned for VLP devices as LPI devices are limited to indoor locations utilizing access points that are supplied power by a wired connection while standard power access points may not be mobile. The Commission does note that consistent with 6 GHz low-power indoor unlicensed devices as well as all client devices, the Commission will require VLP devices to include a contention-based protocol which will act to avoid channels on which incumbent systems are actively transmitting.

10. Link Budget Analysis

45. As discussed in more detail below, a number of commenters submitted link budget analyses that they claim show that harmful interference will result from VLP device operation. The Commission disagrees with CTIA—

The Wireless Association (CTIA), Southern Company, and others regarding the utility of link budget analysis in driving the Commission's decision regarding VLP devices. In determining whether to permit VLP devices to operate in the 6 GHz band, the controlling factor is the potential risk that VLP devices could cause harmful interference to microwave links. This is a function not just of the received power level from a VLP device at a ''worst-case'' location, but also of the likelihood that a device will be at the location at the same time that a severe enough atmospheric multipath fade occurs to overcome the microwave link's fade margin. This question is not one that a link budget analysis alone can answer. A link budget provides a calculation of the power received at a receiver at one instant of time based on deterministic quantities for quantities such as transmitted power level, propagation loss, antenna gain, polarization loss, feeder loss, etc. Such an analysis does not take into account probabilistic quantities such as multipath fading or the likelihood of a transmitting device being in a particular location or transmitting co-channel with a microwave links. One important factor that a link budget analysis cannot consider is the fact that, because the Commission is prohibiting VLP device use for fixed infrastructure purposes, the VLP devices will be mobile and will not remain in potentially problematic locations for significant periods of time. A computer simulation that takes into account the transient nature of VLP use is a better model for determining VLP device interference potential as compared to a link budget analysis. The Commission also disagrees with Southern Company's contention regarding the utility of computer simulations as the number of VLP devices reach the millions. In fact, that is exactly what Monte Carlo simulations are designed to analyze, especially when each device is subject to multiple probabilistic operating conditions. The assumptions used in the San Francisco simulation to determine the number of simultaneously transmitting devices in the San Fransisco area assumed millions of VLP devices present in that area, but that did not mean that all these devices were transmitting simultaneously co-channel. As discussed above, that simulation starts with the 13,066,000 people in the San Francisco area and calculates how many VLP devices will be simultaneously transmitting outdoors in the area based on assumptions as to how many people are outdoors, how many of these people use VLP devices, how many VLP devices are capable of using the 6 GHz band, how many VLP devices actually use the 6 GHz band, and how many VLP devices are actively transmitting at a given moment.

46. As already noted, the Commission believes that Monte Carlo analysis is the most appropriate method for evaluating the potential for VLP devices to exceed −6 dB I/N. Although the link budget analyses provided by commenters conclude that in some instances the I/N caused by a VLP device could exceed that interference protection criterion, these analyses suffer from one of the same fundamental flaws as the AT&T link budget analysis that the Commission rejected in the *6 GHz Order*—that is, they rely on worst-case scenarios that overstate the potential for harmful interference. For example, Southern Company and Edison Electric Institute (EEI) submitted link budget analyses which assumed that all VLP devices are operating in locations within the main beam of the antenna. Nokia submitted a link budget analysis in which it similarly assumed that VLP devices were operating either in buildings directly beneath a microwave receiver and at street level within line-of-sight to a 6 GHz microwave receiver. Furthermore, all the link budget analyses relied on inappropriate assumptions for certain values, such as antenna pattern mismatch, feeder line loss, and propagation model. Moreover, just the mere possibility that under certain circumstances and in certain locations an I/N may rise to a level greater than −6 dB I/N does not translate to any certainty that harmful interference will occur; several other independent factors must also simultaneously occur and the probability of those events occurring is sufficiently low to lead us to the Commission's conclusion that based on the analyses in the record, VLP devices can coexist with incumbent operations in the 6 GHz band with an insignificant risk of causing harmful interference.

11. Interference Studies

47. Several utilities filed field test measurement reports directed at quantifying LPI device interference potential on actual microwave receivers. While the focus of those studies is on LPI devices that are located indoors, some of the results do have implications for understanding the potential for VLP devices to cause harmful interference. CTIA and Southern Company jointly conducted field measurements using a signal generator to emulate both LPI and VLP devices which they claim show the emulated VLP device reduced the microwave link fade margin between 5.2 dB and 10.9 dB. For its test, Evergy used a commercially purchased LPI access point. When the result is adjusted for the power difference between LPI and VLP devices, the test indicates the I/N could be 14.5 dB for a VLP device located next to a window in a school classroom. Other electric utilities also conducted field test measurements: First Energy reports I/N ratios as high as 9.1 dB and Southern Company reports I/N ratios at high as 25.7 dB.

48. Apple, Broadcom, et al. criticize these field tests for using an indirect methodology to measure the reduction in link fade margin and estimating the I/N ratio. Apple, Broadcom, et al. claim the field test methodology is unreliable and produces inconsistent results. They also claim that the test chose worst-case locations and set the LPI access point parameters to reflect only extreme worst-case scenarios with unrealistic data rates. In addition, NCTA—The internet & Television Association (NCTA) suggests that the field test should use a metric based on the microwave link's signal to interference-plus-noise ratio S/(I+N) rather than using an I/N ratio or a reduction in fade margin as an interference metric as the S/(I+N) ratio would take into account the characteristics of the microwave link.

49. The Commission believes Apple, Broadcom, et al. and NCTA express valid points about the field test results, especially regarding the testing methodology. However, as the Commission's focus here is on the potential for VLP devices to cause harmful interference and the field tests were mainly directed to LPI devices, the Commission refrains from opining on how representative the tests are of LPI device use. As for their connection to assessing VLP interference potential, the Commission observes that they too rely on worst-case scenarios that overstate the potential for harmful interference and therefore suffer from the same flaw as the link budget analyses and as the AT&T study that was rejected in the *6 GHz Order.* The field tests purport to measure the I/N ratio at a worst-case location directly within the main beam of a microwave receiver. Furthermore, as these tests do not take into the account the fade margin designed into the microwave link and the occurrence of atmospheric multipath fading, they are of limited utility in determining the likelihood that the microwave links will actually experience harmful interference from a mobile VLP device, which by nature is unlikely to remain at any specific location or in a fixed orientation for a significant interval of time. Thus, these field tests are not

informative with respect to the impact that VLP devices could have on microwave link reliability.

12. Chain of Coincidences Rationale

50. AT&T claims that the VLP device proponents make a flawed argument in claiming that ''a chain of improbable coincidences'' is necessary for interference to occur to microwave links and ''citing indoor use, device positioning, channel overlap, body loss, RLAN antenna gain, transmit power control, fade margin and itinerant use.'' The Commission agrees with AT&T to the extent that it intimates that merely mentioning each of these factors, claiming each is unlikely, and thus deducing that harmful interference is unlikely to occur is of little utility. Consequently, while these assertions may have some merit, the Commission did not rely on them in reaching our conclusions here. Instead, the Commission's conclusions rely heavily on the San Francisco and Houston Monte Carlo simulations, which considered the respective likelihood for different factors that could impact interference potential to quantify the overall risk of harmful interference occurring to 6 GHz microwave links. Based on these analyses, the Commission concludes that the risk is insignificant.

B. Fixed Satellite Services (FSS)

51. The entire 6 GHz band is allocated for the FSS in the Earth-to-space direction. Additionally, portions of the U–NII–7 and U–NII–8 bands are allocated for FSS space-to-Earth (downlink) operations. However, there are no licensed downlink earth stations in the U–NII–7 band. Sirius XM and Globalstar were the only FSS operators to file comments in response to the *Further Notice of Proposed Rulemaking* (FNPRM), 88 FR 43502 (July 10, 2023), but these comments were limited to their operations in the U–NII–8 band.

52. In *6 GHz Order,* the Commission concluded that FSS receivers in space would not receive harmful interference from either 6 GHz standard power or LPI devices. Considering that the satellites receiving in the 6 GHz band are limited to geostationary orbits, approximately 35,800 kilometers above the equator, the Commission found that it is unlikely the relatively low power unlicensed devices would cause harmful interference to the space station receivers. The only restriction that the Commission adopted to protect the satellite receivers was to require that outdoor standard-power access points limit their maximum EIRP above a 30 degree elevation angle to 21 dBm. Because VLP devices are limited to no more than 14 dBm EIRP, for the same reasons, the Commission concludes that no restrictions on VLP devices are necessary to protect FSS Earth-to-space operations.

C. Radio Astronomy Services

53. Incumbent operations in the U–NII–7 band include several radio astronomy observatories, located in remote areas, that observe methanol spectral lines between 6.65–6.6752 GHz. To protect these radio observatories, the National Academy of Sciences' Committee on Radio Frequencies (CORF) requests that we implement exclusion zones for this band, as listed in Allocation Table footnote US385, if VLP devices are able to determine their locations. If the devices are not able to determine their locations, CORF claims that the radio observatories must be protected by notching out the VLP device's transmissions within this band.

54. When the Commission adopted the rules for 6 GHz LPI devices, it did not implement exclusion zones or require the LPI devices to notch out the 6.65–6.6752 GHz band. Because VLP devices will operate at an even lower power than LPI devices, the Commission does not expect them to create an interference problem for the radio observatories. The Commission recognizes the importance of these observations to the scientific community but, as VLP devices will not operate under the control of an AFC system and will not be required to have a geolocation capability, the Commission is not able to adopt exclusion zones around these radio observatories. The radio observatories that receive in the 6 GHz band are in remote locations, and it is unlikely that unlicensed VLP devices will be operating nearby. Furthermore, these observatories can restrict such devices from being used at their facilities. Consequently, the Commission concludes that radio astronomy operations will not be subject to harmful interference from unlicensed VLP devices. Given this conclusion, the Commission cannot justify requiring VLP devices to notch out this band as requested as this would increase device complexity and result in less efficient spectrum use.

D. Emission Mask and Out-of-Band Emission Limit

1. Limits for Very Low Power Devices in the U–NII–5 and U–NII–7 Bands

55. In the *FNPRM,* the Commission sought comment on appropriate power levels and other technical parameters that VLP unlicensed devices in the 6 GHz band should have to meet. The Commission notes that there were no comments regarding the in-band emission mask for 6 GHz VLP devices. The Commission's previous decision in the *6 GHz Order* found that the emission mask originally proposed by RKF engineering, with certain modifications, was necessary to protect incumbent microwave links and other services operating in the adjacent channel to unlicensed devices within the U–NII–5 through U–NII–8 bands. Because 6 GHz VLP devices will operate in two of these same bands and on the same channels as LPI and standard power 6 GHz devices and need to protect the same incumbent operations, the Commission finds that using the same emission mask for VLP devices as adopted for LPI and standard power devices is appropriate. As the incumbent operations' protection requirements have not changed since the Commission's previous decision for this band, using the same mask ensures that those operations are fully protected from unlicensed adjacent channel operations. Moreover, by adopting the same emission requirements, the Commission anticipates that device manufacturers will be able to take advantage of economies of scale regarding filters necessary to meet these requirements which should help to reduce costs. Finally, the Commission takes this opportunity to again point out that the emission specification it's adopting represents the minimum requirement. The Commission encourages device manufacturers, consistent with the recent Commission *Policy Statement,* to design their devices to minimize energy transmitted into adjacent channels.

56. Accordingly, the Commission is requiring emissions from VLP devices in the U–NII–5 and U–NII–7 bands to comply with the transmission emission mask adopted in the *6 GHz Order.* That is, the Commission is requiring the power spectral density to be suppressed by 20 dB at one megahertz outside of an unlicensed device's channel edge, suppressed by 28 dB at one channel bandwidth from an unlicensed device's channel center, and suppressed by 40 dB at one and one-half times the channel bandwidth away from an unlicensed device's channel center. At frequencies between one megahertz outside an unlicensed device's channel edge and one channel bandwidth from the center of the channel, the limits must be linearly interpolated between the 20 dB and 28 dB suppression levels. At frequencies between one and one and one-half times an unlicensed device's

channel bandwidth from the center of the channel, the limits must be linearly interpolated between the 28 dB and 40 dB suppression levels. Emissions removed from the channel center by more than one and one-half times the channel bandwidth, but within the U–NII–5 and U–NII–7 bands, must be suppressed by at least 40 dB.

2. Emission Limits Outside the U–NII–5 and U–NII–7 Bands

57. The Commission is adopting emissions limits at the edge of the U–NII–5 and U–NII–8 bands for VLP devices that are identical to the emissions limits that the Commission adopted in the *6 GHz Order.* Specifically, the Commission is adopting a −27 dBm/MHz EIRP limit for 6 GHz VLP devices at frequencies below the bottom of the U–NII–5 band (5.925 GHz) and above the upper edge of the U–NII–8 band (7.125 GHz), but will not require it between the sub-bands, *i.e.,* between the U–NII–5 and U–NII–6, the U–NII–6 and U–NII–7, and the U–NII–7 and U–NII–8 bands; those emissions are subject to the emission mask and out-of-band emission (OOBE) limits discussed above. These limits are intended to protect cellular vehicle-to-everything (C–V2X) operations below the 6 GHz band and Federal operations above the band. The Commission previously determined that the −27 dBm/MHz limit will sufficiently protect C–V2X operations from harmful interference from U–NII devices operating in other bands.

58. The Commission notes here that it adopted rules that require Intelligent Transportation System (ITS) licensees to cease use of the 5.850–5.895 GHz band and operate only in the 5.895–5.925 GHz band. In the *5.9 GHz Order,* 83 FR 23281 (May 3, 2021), the Commission also required that dedicated short range communications (DSRC)-based technology operating in the ITS radio service transition to C–V2X-based technology. The FNPRM, 86 FR 23323 (May 3, 2021), in that proceeding addressed transitioning all ITS operations in the revised ITS band at 5.895–5.925 GHz to C–V2X-based technology, including the appropriate timeline for the implementation and codification of C–V2X technical parameters for operation in the 5.895–5.925 GHz band. Since then, the C–V2X proponents requested and the Commission has begun granting waivers to allow immediate C–V2X deployment in the ITS bands prior to the initiation of final rules for CV2X operations.

59. Several parties support the −27 dBm/MHz EIRP emission limit, while other parties make alternative proposals. A group of VLP proponents jointly propose a compromise out-of-band emission limit that would apply at the bottom of the U–NII–5 band. Specifically, they propose that VLP devices comply with a −37 dBm/MHz out-of-band emission limit at 5925 MHz measured by root mean square (RMS) to ensure coexistence when 6 GHz devices are operating in the lowermost channels and that VLP devices prioritize operations in channels above 6105 megahertz.

60. The Commission is not convinced at this time that a more stringent out-of-band emission limit nor operational restrictions suggested by C–V2X proponents are necessary to protect in-vehicle C–V2X devices from harmful interference. The Commission already determined that standard power and LPI 6 GHz devices must comply with this same −27 dBm/MHz out-of-band emission limit and that emissions at or under that limit will protect adjacent band users from harmful interference. C–V2X devices must be designed to successfully operate in an interference-limited environment as they are subjected to co-channel and adjacent channel signals between each other that are higher than the −27 dBm/MHz out-of-band emission limit the Commission is adopting here for 6 GHz unlicensed VLP devices. C–V2X devices have to coexist with other C–V2X devices that operate in close proximity to each other, *e.g.,* other on-board units (within vehicles) and roadside units. Finally, to the extent that commenters raised concerns about harmful interference from aggregate VLP device emissions, the Commission notes that the number of such devices present in any given vehicle is anticipated to be low and because transmissions between VLP devices would occur over very short distances, the transmit power levels and their associated out-of-band emissions are expected to be well below the maximum permitted. Thus, even if multiple out-of-band emissions were aggregated, the total out-of-band emissions in the local area would still be expected to be below C–V2X device's own signal levels. The Commission also believes that maintaining the −27 dBm/MHz emission limit is appropriate in part because the rules for C–V2X operation in the 5.895–5.925 GHz band are the subject of a pending rulemaking proceeding and current C–V2X operations are pursuant to conditional rule waivers.

61. The Commission declines to adopt the −37 dBm/MHz out-of-band emissions limit suggested by some parties. However, the Commission plans on seeking additional information on the potential impact that VLP devices operating in motor vehicles could have on C–V2X performance and whether any modification of the out-of-band emission limit or other technical or operational requirements are appropriate. Likewise, the Commission finds the −60 dBm/MHz out-of-band emission limit suggested by the Alliance for Automotive Innovation (AAI) for application at the U–NII–5 band edge to be too restrictive. In addition, the Commission finds AAI's suggestion to require VLP devices to operate with a 1–2% duty cycle that is averaged over a range of tens of milliseconds is not reasonable. While duty cycle is an important parameter for system operation, the Commission typically does not make rules requiring adherence to specific duty cycle requirements as they may artificially restrict design choices and limit the applications that can be used by the American public. Similarly, the Commission declines to adopt a requirement advocated by Panasonic that VLP devices include sensing technology as it does not believe that such a complex solution is necessary to achieve the protection requirements needed for all users in the band. Moreover, any new sensing technology often requires long development cycles along with extended testing to ensure proper operation, which would only delay the benefits that VLP devices can provide.

62. As discussed above, the Commission remains convinced that the −27 dBm/MHz out-of-band emission level at the lower edge of U–NII–5 will protect C–V2X operations below 5925 MHz and adopt that level for VLP devices. This will create a consistent out-of-band limit for all 6 GHz unlicensed devices throughout the 6 GHz band.

3. Prioritization of Operations on Channels Above 6105 MHz

63. The Commission is mindful of the concerns from the auto industry regarding the potential for harmful interference to automotive safety systems operating below the U–NII–5 band. For example, the proponents of the compromise proposal propose that VLP devices prioritize unlicensed operation in channels above 6105 MHz (*i.e.,* the top edge of the first 160 megahertz wide channel in the Institute of Electrical and Electronics Engineers (IEEE) band plan) before operating below 6105 MHz and that manufacturers submit with their equipment authorization application a declaration that the equipment complies with this prioritization rule.

64. To ensure that safety of life services below the U–NII–5 band are protected from harmful interference, the Commission adopts the suggestion from the compromise proposal to require VLP devices to prioritize spectrum above 6105 MHz. The Commission disagrees with NAB that this is inconsistent with its previous decision not to exclude VLP devices from a portion of the 6 GHz band to protect electronic news gathering (ENG) operations as this requirement does not prohibit operation below 6105 MHz; it merely requires that devices seek to operate in the spectrum above that frequency first before operating below it. Although under this approach, there may be fewer VLP devices operating on the spectrum below 6105 MHz, many devices will still operate on that spectrum and the Commission does not expect abnormal concentrations of VLP devices in U–NII–6 and U–NII–8 where ENG operates as devices would still naturally spread across the available spectrum.

E. Other Matters

65. *Restrictions on Very Low Power Device Use on Aircraft, Boats, and Oil Platforms.* Because VLP access points can operate in motion, unlike standard power and LPI devices that the rules limit to stationary operation, the Commission will permit VLP devices to operate in terrestrial land-based vehicles, including cars, buses, trains, etc. The Commission will also not prohibit VLP device use on boats in contrast to its decision to prohibit standard power and LPI devices from operating on boats. That decision stemmed from a request from the National Academy of Sciences' Committee on Radio Frequencies (CORF) seeking protection for Earth Exploration Satellite Service (EESS) remote sensing operations over oceans. Given that VLP devices will operate at much lower power levels than LPI and standard power devices, and many boaters, particularly recreational boaters operate either on inland lakes and waterways or in close proximity to the coastline, the Commission does not believe that they will present an interference threat to EESS sensing over the oceans. However, the Commission plans on seeking comment on whether any restrictions should be put in place for VLP operation on boats. The Commission will continue to prohibit 6 GHz devices, including VLP devices, from operating on oil platforms because EESS operations in this band mainly include oceanic sensing, and operation of VLP devices on oil platforms could potentially interfere with passive and active sensing operations over the oceans and coastal where these oil rigs tend to be concentrated. The Commission also notes that ocean based oil platforms, are located anywhere from a few hundred meters to a few hundred miles off of the coast where EESS operations are monitoring critical data oceanographic and weather phenomenon. However, the Commission plans on seeking comment on whether this restriction should be eliminated.

66. Consistent with the Commission's decision in the *6 GHz Order* to prohibit standard power and LPI devices from operating in low flying aircraft and unmanned aircraft systems (UAS) (*i.e.,* drones), the Commission similarly prohibits such operation for VLP devices. Use on such platforms presents novel propagation paths and introduces the potential for causing harmful interference to fixed microwave receivers, which are typically located on towers and rooftops. Unlike operation that may occur outside on a balcony above ground level, operation on a low flying aircraft or UAS may not have buildings or other structures nearby to attenuate signals and thus will have a higher probability of having a line-of-sight path to an incumbent receiver location resulting in a higher potential for causing harmful interference. Hence, the Commission will apply the same aircraft restriction to VLP devices as it adopted for LPI and standard power devices. VLP devices will not be permitted on aircraft, except in large aircraft while flying above 10,000 feet. Consistent with the Commission's decision in the *6 GHz Order,* it believes that operating at those altitudes along with attenuation provided by an aircraft's fuselage will keep signal levels to such a low level at incumbents' receivers as to pose an insignificant harmful interference risk. The Commission will permit VLP devices operating on aircraft above 10,000 feet to operate across the 5.925–6.425 GHz band. This is consistent with the *6 GHz Order,* which restricted LPI operation on large aircraft flying above 10,000 feet to the U–NII–5 band to prevent harmful interference to radio astronomy and EESS operations in the U–NII–6, U–NII–7, and U–NII–8 bands. VLP devices will also not be permitted to be used for control of or communications with unmanned aircraft systems.

67. *57–71 GHz Band.* CTIA opposes expanding AFC-free VLP unlicensed operations in the 6 GHz band and instead proposes that unlicensed proponents consider the 57–71 GHz band for VLP operations. We decline to prohibit VLP device operations in the U–NII–5 and U–NII–7 portions of the of the 6 GHz band in favor of the 57–71 GHz band. The Commission's policy has been to provide as much flexibility for spectrum users—both licensed and unlicensed—to use spectrum bands that best meet their needs based on their business case and expected use cases. VLP operations are no different and, as explained in the Second Report and Order, the Commission believes that permitting VLP operations in the 6 GHz band meets that goal. The rules the Commission is adopting provides flexibility for VLP operations while still protecting authorized services from harmful interference. Furthermore, the Commission notes that the 57–71 GHz band has flexible rules for unlicensed operations and that manufacturers could develop similar devices to 6 GHz VLP devices under those rules should they determine that it is both feasible and would meet consumer demand.

68. *LPI and standard power devices as substitute for VLP.* AT&T points to claims by VLP device proponents that 90% of these devices will operate indoors to argue that VLP devices are not necessary to address the use cases purportedly supported by the VLP rules. AT&T also claims that VLP device proponents essentially concede that the burden of adding AFC capability to VLP devices would be minimal, pointing to a filing by Apple, Broadcom, Google, and Meta that discusses implementing exclusion zones for VLP devices.

69. The Commission does not agree with AT&T's rationale that if 90% of VLP use is assumed to be indoors, there is no utility in enabling outdoor VLP device operation. VLP proponents describe portable battery-powered consumer products as a primary use case for these devices, and apportioning significant battery resources to the overhead necessary to operate pursuant to an AFC could reduce utility of these devices to the point that they would be infeasible. In addition, as discussed above, the Commission disagrees with AT&T's assertion that there is no cost to implement an AFC capability in VLP devices. Adding AFC capability to these small battery-powered portable device would likely increase their complexity and, correspondingly, their cost. The Commission also agrees with Apple, Broadcom, and Meta that VLP devices will be suitable for applications that require direct communications between client devices and to support mobility that may require devices to transition between indoor and outdoor use. Therefore, the Commission finds AT&T's contention to be without merit.

70. *Rule Corrections.* The Commission is making two minor changes to § 15.407 to correct cross-references that were

inadvertently not updated when the Commission previously renumbered paragraphs in this section. Specifically, the Commission corrects the cross-reference in the introductory text of § 15.407(b) to reference paragraph (b)(10) rather than paragraph (b)(7), and the Commission corrects the cross-reference in § 15.407(l)(2)(ii) to reference paragraph (b)(7) rather than paragraph (b)(6).

F. Benefits and Cost

71. As discussed above, the Commission adopts rules to permit VLP devices to operate in the U–NII–5 and U–NII–7 portions of the 6 GHz band while protecting the licensed services that operate in the band from harmful interference. Enabling new unlicensed use types in the U–NII–5 and U–NII–7 bands will yield important economic benefits and will allow more extensive use of technologies, such as Wi-Fi and Bluetooth, by American consumers. Consumers are using more and more data, on average, and this is expected to continue to grow significantly. One report estimated that in 2021, the economic benefits associated with Wi-Fi in the United States was valued at almost $979 billion and that by 2025, 40% of Wi-Fi traffic will rely on 6 GHz. Another report estimated that making the 6 GHz band accessible to VLP devices would produce over $39 billion in economic value over five years. Even if the rules that the Commission adopts herein lead to expected benefits of 5% of $39 billion, or approximately $2 billion—a figure the Commission finds to be below the likely benefits of these rules—the expected benefits will be well in excess of the costs that we estimate.

72. Because there are presently no VLP devices in operation, the rules that the Commission promulgate does not have cost implications for the existing unlicensed device ecosystem. And because the harmful interference risk to incumbent operators is insignificant and the Commission is not imposing any specific requirements on any incumbent operator, there is also no cost implication on them. Thus, by promulgating these rules to enable VLP devices to operate in the U–NII–5 and U–NII–7 portions of the 6 GHz band, significant economic benefits will be bestowed on the American public.

Memorandum Opinion and Order on Remand

73. *Introduction.* In this order, the Commission addresses a remand from the United States Court of Appeals for the District of Columbia Circuit concerning the rules that govern the use of unlicensed devices in the 6 GHz band (*AT&T Servs., Inc.* v. *FCC,* 21 F.4th 841 (D.C. Cir. 2021)). After rejecting a number of challenges to the rules, the court of appeals remanded a single narrow issue for further consideration. Specifically, the court directed us to consider whether, in light of broadcasters' claims that they have experienced interference from unlicensed devices in the 2.4 GHz band, a portion of the 6 GHz band should be reserved for mobile broadcast operations. For the reasons set forth below, the Commission concludes that broadcasters' unsubstantiated claims of interference in the 2.4 GHz band do not warrant any modification of our 6 GHz rules.

74. *Background.* In the spring of 2020, the Commission adopted rules to make 1200 megahertz of spectrum available for use by unlicensed devices in the 6 GHz band (5.925–7.125 GHz). Several parties, including NAB, filed petitions for review of the rules in the D.C. Circuit. The court denied the petitions for review ''in all respects save one.'' The sole issue that the court remanded concerned NAB's assertion that ''after the Commission allowed unlicensed access in the 2.4 GHz band, 'a contention-based protocol . . . failed to protect . . . licensed users[,] . . . rendering that band partially unusable.' '' Based on broadcasters' concern that unlicensed devices could create similar problems in the 6 GHz band, NAB had asked the Commission to ''reserve a sliver of [the] 6 GHz band for licensed mobile [broadcast] operation.'' In the court's view, ''the Commission failed adequately to respond to [this] request'' because it ''never responded'' to NAB's concerns about interference in the 2.4 GHz band. ''Given the Commission's failure to respond'' to these concerns, the court concluded that ''further explanation is called for.'' Accordingly, the court ''remand[ed] to the Commission for it to respond to [NAB's] concerns about interference in the 2.4 GHz band.''

75. *Discussion. In* response to the court's remand, the Commission has further examined NAB's claims concerning the 2.4 GHz band, and the Commission finds that those claims lack merit. The record in this proceeding contains no concrete evidence that unlicensed Wi-Fi devices have caused harmful interference to mobile broadcast operations in the 2.4 GHz band. By contrast, the record contains concrete evidence that contention-based protocols would be effective in the 6 GHz band. Consequently, the Commission finds that NAB's claims of interference in the 2.4 GHz band do not warrant any modifications to its 6 GHz rules.

76. In a series of letters filed before the 6 GHz rules were adopted, NAB told the Commission that a contention-based protocol requirement for unlicensed devices in the 2.4 GHz band had not protected broadcasters and that this experience should lead the Commission to conclude that a contention-based protocol likewise would not protect broadcasters from harmful interference in the 6 GHz band. NAB claimed that ''the penetration of Wi-Fi has so polluted the shared portion of the 2.4 GHz band as to render it unusable for'' ENG operations. But NAB offered no specific evidence to support this broad claim. Instead, NAB cited comments filed in this proceeding by the Engineers for the Integrity of Broadcast Auxiliary Services Spectrum (EIBASS) in February 2019.

77. Although EIBASS asserted in its February 2019 comments that ''part 15 devices have a long history of causing chronic interference to TV BAS [Broadcast Auxiliary Service] operations'' on certain channels in the 2.4 GHz band, it offered only two very specific pieces of evidence regarding this claim: an unsubstantiated account of an incident that allegedly occurred in a single market more than a decade ago and a spectrum analyzer screenshot from a specific location purporting to show that Wi-Fi caused an increase in the 2.4 GHz band noise floor. EIBASS described a presentation made by the BAS frequency coordinator for Phoenix, Arizona, during a conference of broadcast engineers in April 2004. According to EIBASS, the Phoenix coordinator stated during the April 2004 presentation that ''about every six months or so,'' one of the four ENG receive-only sites in the Phoenix area ''becomes unusable'' for certain channels in the 2.4 GHz band ''because of the proliferation of 2.4 GHz WiFi devices at the site.''

78. Even if the Commission were persuaded that broadcasters in the Phoenix area had experienced interference in the 2.4 GHz band nearly two decades ago, as EIBASS claimed, this isolated incident would not convince us that the Commission needs to take additional measures that would affect the entirety of the U.S. to protect broadcasters from harmful interference in the 6 GHz band. Even assuming that harmful interference did in fact occur, the Commission has no way of verifying that Wi-Fi devices caused the problem. If the alleged interference did, in fact, occur, the Commission notes that many unlicensed part 15 non-Wi-Fi devices also operate in the 2.4 GHz band, and

those devices do not use a contention-based protocol. Similarly, industrial, scientific, and medical (ISM) devices operate on a primary basis in the 2.4 GHz band. Because EIBASS does not attribute any alleged harmful interference to any specific Wi-Fi device(s) and does not appear to consider any of the other numerous devices operating in the band without using a contention-based protocol, the Phoenix incident does not support NAB's assertion that a contention-based protocol failed to prevent interference in the 2.4 GHz band.

79. The other evidence that EIBASS provided was a spectrum analyzer screenshot that was captured at an ENG receive-only site in Phoenix in 2013. While this screenshot shows that some type of signal could have been present in the 2.4 GHz band at that time, it does not provide evidence of what devices may be causing any noise floor increase nor that a contention-based protocol would have failed to protect BAS receivers in the band. Moreover, as this screenshot is merely an indication of the spectrum at a single point in time, it offers no indication as to the behavior of a device employing a contention-based protocol when in the vicinity of a BAS transmitter in the band. Given the limited information this screenshot conveys, it provides no grounds to support NAB's assertion that a contention-based protocol had failed to prevent interference in the 2.4 GHz band.

80. Furthermore, even if the devices that EIBASS alleged were causing interference in Phoenix used a contention-based protocol, the Commission cannot determine from the sparse evidence in the record whether those devices were operating in compliance with the Commission's part 15 rules. Notably, the contention based protocol used by Wi-Fi devices is part of the IEEE 802.11 standard and not required by the Commission's rules nor do the Commission's rules limit such devices to indoor locations. Because of the lack of a Commission-mandated requirement for a contention-based protocol or indoor operation on 2.4 GHz devices, and no insight into whether devices in the Phoenix area at the time of the alleged interference were actually using such a protocol or operating indoors, it is impossible to draw any conclusions from those operations and the operations anticipated in the 6 GHz band. Thus, the alleged Phoenix incidents shed no light on the relevant question raised by NAB: that is, whether the purported experience regarding potential harmful interference to BAS devices in the 2.4 GHz band has any relevance to the potential for such interference from LPI devices in the 6 GHz band. Additionally, as an added safeguard and as several commenters note, the 6 GHz rules impose much lower power limits on unlicensed LPI devices than the 2.4 GHz rules do.

81. In contrast to NAB's unsubstantiated claims of harmful interference in the 2.4 GHz band, the record persuades us that ''the risk of harmful interference to indoor electronic news gathering receivers from indoor unlicensed devices'' in the 6 GHz band ''is insignificant.'' A study by Apple, Broadcom, et al. ''simulated the receive power level from electronic news gathering transmitters at 20 unlicensed access points operating within the U.S. House of Representatives chamber. The results of this simulation demonstrate[d] that, even at the lowest electronic news gathering transmit power level, all unlicensed access points would detect the electronic news gathering signal at greater than −62 dBm and therefore not transmit co-channel.'' This study ''confirm[ed]'' that contention-based protocols ''could be used to mitigate interference to indoor electronic news gathering receivers'' in the 6 GHz band.

82. Because the record contains no substantial evidence of harmful interference to broadcast operations in the 2.4 GHz band, the Commission finds no basis for NAB's assertion that a contention-based protocol failed to protect broadcasters from interference in that band, much less under the parameters established for operation in the 6 GHz band. As the Commission noted in the *6 GHz Order,* ''Wi-Fi devices have been deployed'' in the 2.4 GHz band ''in abundance for well over 20 years.'' For most of that time, the 2.4 GHz band was the primary band used by Wi-Fi devices. If (as NAB and others have claimed) interference from Wi-Fi devices prevented broadcasters from using portions of the 2.4 GHz band, the Commission would expect the record to reflect evidence of numerous instances of such interference. Yet apart from an unsubstantiated account of an alleged incident in Phoenix almost two decades ago and a spectrum analyzer screenshot captured in Phoenix more than a decade ago, the record contains no specific evidence that any broadcaster has experienced harmful interference from unlicensed Wi-Fi devices in the 2.4 GHz band. Moreover, neither NAB nor any other party has cited a single complaint filed with our Enforcement Bureau by any broadcaster alleging interference by unlicensed Wi-Fi devices in the 2.4 GHz band. The absence of any such complaints undermines NAB's contention that interference from unlicensed Wi-Fi devices is a serious problem for broadcasters in the 2.4 GHz band.

83. Following the remand, the Society of Broadcast Engineers (SBE) and EIBASS attempted to supplement the record by presenting new evidence of harmful interference in the 2.4 GHz band. Such evidence falls outside the scope of this remand proceeding. The narrow question presented by the court's remand is whether the Commission adequately considered NAB's concerns about interference in the 2.4 GHz band when it adopted the 6 GHz rules. In this context, the relevant record is ''the record before the agency at the time of its decision.''

84. In any event, even assuming that the new evidence proffered by SBE and EIBASS were properly before us, this evidence does not persuade us that Wi-Fi devices have caused harmful interference to broadcast operations in the 2.4 GHz band, much less at the far lower power at which Wi-Fi operations are required to operate in the 6 GHz band. SBE asserts that it conducted an ''informal survey'' in which local frequency coordinators reported ''harmful interference from Wi-Fi systems [in the 2.4 GHz band] . . . in at least 13 markets.'' But as Apple, Broadcom, et al. point out, SBE's ''informal survey'' was ''backed in most cases by no supporting evidence or incident descriptions.'' The only evidence offered by SBE to support its ''informal survey'' is a spectrum plot that purports to show interference in Milwaukee. The Commission agrees with Apple, Broadcom, et al. that this spectrum plot does not constitute ''meaningful technical evidence'' because it contains ''no supporting detail'' concerning how the measurement of interference in Milwaukee was made. In particular, the Commission notes that SBE offers ''no explanation why'' it attributes the alleged interference in Milwaukee ''to Wi-Fi, rather than to the many other technologies operating in the 2.4 GHz band that do not use a contention-based protocol.'' The same is true of EIBASS's comparison of the noise floors for mobile broadcast operations at 2 GHz and 2.5 GHz. Although EIBASS claims that part 15 Wi-Fi devices are responsible for the higher noise floor at 2.5 GHz, the higher noise floor could also be attributable to ''the many other technologies operating in the 2.4 GHz band that do not use a contention-based protocol.''

85. The post-remand submissions by SBE and EIBASS also fail to cite any complaints filed with our Enforcement

Bureau claiming that Wi-Fi devices caused harmful interference to mobile broadcast operations in the 2.4 GHz band. The absence of any such complaints casts further doubt on the assertions made by NAB and its supporters that broadcasters have routinely experienced such interference.

86. In sum, despite NAB's claims that interference issues in the 2.4 GHz band are pervasive and longstanding, the record contains no credible evidence of such interference. The specific incident of alleged interference cited in the record occurred about two decades ago in Phoenix, and it was never reported to the Commission's Enforcement Bureau. EIBASS's sketchy description of the details of that incident does not provide us with enough information to draw any firm conclusions about how—or even whether—interference occurred. The spectrum analyzer screenshot showing an increase in the noise floor in Phoenix more than a decade ago also lacks the details needed to reach a conclusion about whether harmful interference was occurring. Given the absence of any concrete evidence that broadcasters have experienced harmful interference in the 2.4 GHz band or in the 6 GHz band, where LPI devices have been operating since December 2020, and in light of the substantial record evidence demonstrating that there is no significant risk of harmful interference given the constraints under which Wi-Fi devices are required to operate in the 6 GHz band, the Commission rejects NAB's contention that broadcasters' experience with interference in the 2.4 GHz band justifies the reservation of a portion of the 6 GHz band for mobile broadcast operations.

87. *Conclusion.* For the foregoing reasons, the Commission concludes that NAB's unsubstantiated claims of interference in the 2.4 GHz band do not justify any modifications to its 6 GHz rules to provide broadcasters with further protections from harmful interference. The Commission reaffirms that the rules adopted in the *6 GHz Order* eliminate any significant risk of harmful interference to mobile broadcast operations and other incumbent licensed services in the 6 GHz band. Therefore, the Commission declines to adopt NAB's proposal to reserve part of the 6 GHz band for the exclusive use of mobile broadcast operations.

Ordering Clauses

1. Accordingly, *it is ordered,* pursuant to sections 2, 4(i), 302, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 152, 154(i), 302a, and 303, the *Second Report and Order and Memorandum Opinion and Order on Remand,* is hereby *adopted.*

2. *It is further ordered,* pursuant to sections 4(i), 4(j), 201, 302, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), (j), 201, 302a, 303, that the *Memorandum Opinion and Order on Remand* is hereby *adopted.*

3. *It is further ordered* that the amendments of the Commission's rules as set forth in Appendix A of the *Second Report and Order are adopted,* effective 60 days from the date of publication in the **Federal Register**.

4. *It is further ordered* that the *Memorandum Opinion and Order on Remand shall become effective* thirty (30) days after publication in the **Federal Register**.

5. *It is further ordered* that the Office of the Secretary, Reference Information Center, *shall send* a copy of the *Second Report and Order* including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

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

List of Subjects in 47 CFR Part 15

Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 15 as follows:

PART 15—RADIO FREQUENCY DEVICES

■ 1. The authority citation for part 15 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 304, 307, 336, 544a, and 549.

■ 2. Section 15.403 is amended by adding the definition of ''Very low power device'' in alphabetical order, to read as follows:

§ 15.403 Definitions.

* * * * *

Very low power device. For the purpose of this subpart, a device that operates in the 5.925–6.425 GHz and 6.525–6.875 GHz bands and has an integrated antenna. These devices do not need to operate under the control of an access point.

■ 3. Section 15.407 is amended by:
■ a. Removing the headings from paragraphs (a)(1) and (3);
■ b. Redesignating paragraphs (a)(9) through (12) as paragraphs (a)(10) through (13);
■ c. Adding a new paragraph (a)(9);
■ d. Revising paragraphs (b) introductory text, (c), and (d)(1);
■ e. Removing and reserving paragraph (d)(2);
■ f. Revising paragraph (d)(6);
■ g. Adding paragraphs (d)(8) through (10); and
■ h. Revising paragraph (l)(2)(ii).

The revisions and additions read as follows.

§ 15.407 General technical requirements.

(a) * * *

(9) For very low power devices operating in the 5.925–6.425 GHz and 6.525–6.875 GHz bands, the maximum power spectral density must not exceed −5 dBm e.i.r.p in any 1-megahertz band and the maximum e.i.r.p must not exceed 14 dBm.

* * * * *

(b) *Undesirable emission limits.* Except as shown in paragraph (b)(10) of this section, the maximum emissions outside of the frequency bands of operation shall be attenuated in accordance with the following limits:

* * * * *

(c) *Transmission discontinuation requirement.* The device shall automatically discontinue transmission in case of either absence of information to transmit or operational failure. The provisions in this paragraph (c) are not intended to preclude the transmission of control or signaling information or the use of repetitive codes used by certain digital technologies to complete frame or burst intervals. Applicants shall include in their application for equipment authorization a description of how the requirement in this paragraph (c) is met.

(d) * * *

(1) Operational restrictions include:

(i) *Oil platforms.* Operation of standard power access points, fixed client devices, very low power devices, and indoor access points in the 5.925–7.125 GHz band is prohibited on oil platforms.

(ii) *Land vehicles.* Operation of standard power access points, fixed client devices, and indoor access points in the 5.925–7.125 GHz band is prohibited on vehicles (*e.g.,* cars, trains).

(iii) *Boats.* Operation of standard power access points, fixed client

devices, and indoor access points in the 5.925–7.125 GHz band is prohibited on boats.

(iv) *Aircraft.* Standard power access points, fixed client devices, very low power devices, and indoor access points in the 5.925–7.125 GHz band are prohibited from operating on aircraft, except that very low power devices and indoor access points are permitted to operate in the 5.925–6.425 GHz bands in large aircraft while flying above 10,000 feet.

(v) *Unmanned aircraft systems.* Operation of transmitters in the 5.925–7.125 GHz band is prohibited for control of or communications with unmanned aircraft systems.

* * * * *

(6) All U–NII transmitters, except for standard power access points, operating in the 5.925–7.125 GHz band must employ a contention-based protocol.

* * * * *

(8) Very low power devices may not employ a fixed outdoor infrastructure. Such devices may not be mounted on outdoor structures, such as buildings or poles.

(9) Very low power devices must prioritize operations on frequencies above 6.105 GHz prior to operating on frequencies between 5.925 GHz and 6.105 GHz.

(10) Very low power devices operating in the 5.925–6.425 and 6.525–6.875 GHz bands shall employ a transmit power control (TPC) mechanism. A very low power device is required to have the capability to operate at least 6 dB below the maximum EIRP power spectral density (PSD) value of −5 dBm/MHz.

* * * * *

(l) * * *

(2) * * *

(ii) The AFC system must use −6 dB I/N as the interference protection criteria in determining the size of the adjacent channel exclusion zone, where I (interference) is the signal from the standard power access point or fixed client device's out of channel emissions at the fixed microwave service receiver and N (noise) is background noise level at the fixed microwave service receiver. The adjacent channel exclusion zone must be calculated based on the emissions requirements of paragraph (b)(7) of this section.

* * * * *

[FR Doc. 2023–28006 Filed 1–5–24; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 221223–0282; RTID 0648–XD631]

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

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

ACTION: Temporary rule; quota transfer.

SUMMARY: NMFS announces that the State of North Carolina is transferring a portion of its 2023 commercial summer flounder quota to the State of Connecticut. This adjustment to the 2023 fishing year quota is necessary to comply with the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) quota transfer provisions. This announcement informs the public of the revised 2023 commercial quotas for North Carolina and Connecticut.

DATES: Effective January 5, 2024.

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

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found in 50 CFR 648.100 through 648.111. These regulations require annual specification of a commercial quota that is apportioned among the coastal states from Maine through North Carolina. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.102 and final 2023 allocations were published on January 3, 2023 (88 FR 11).

The final rule implementing Amendment 5 to the Summer Flounder FMP, as published in the **Federal Register** on December 17, 1993 (58 FR 65936), provided a mechanism for transferring summer flounder commercial quota from one state to another. Two or more states, under mutual agreement and with the concurrence of the NMFS Greater Atlantic Regional Administrator, can transfer or combine summer flounder commercial quota under § 648.102(c)(2). The Regional Administrator is required to consider three criteria in the evaluation of requests for quota transfers or combinations: (1) the transfer or combinations would not preclude the overall annual quota from being fully harvested; (2) the transfer addresses an unforeseen variation or contingency in the fishery; and (3) the transfer is consistent with the objectives of the FMP and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Regional Administrator has determined these three criteria have been met for the transfer approved in this notification.

North Carolina is transferring 30,000 pounds (lb; 13,608 kilograms (kg)) to Connecticut through a mutual agreement between the states. This transfer was requested to ensure Connecticut would not exceed its 2023 quota. The revised summer flounder quotas for 2023 are North Carolina, 3,001,074 lb (1,361,264 kg), and Connecticut, 953,031 lb (432,288 kg).

Classification

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

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

Dated: January 3, 2024.

Everett Wayne Baxter,

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

[FR Doc. 2024–00149 Filed 1–5–24; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 89, No. 5
Monday, January 8, 2024

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

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3560

[Docket No. RHS–23–MFH–0014]

RIN 0575–AD35

Revisions to the Smoke Alarm Requirements in the Section 515 Rural Rental Housing and Section 514/516 Farm Labor Housing Direct Loan Programs

AGENCY: Rural Housing Service, U.S. Department of Agriculture (USDA).

ACTION: Proposed rule.

SUMMARY: The Rural Housing Service (RHS or Agency), a Rural Development (RD) agency of the United States Department of Agriculture (USDA), proposes to amend its regulation to implement changes related to the smoke alarm requirements for properties that receive funding from the MFH Section 515 Rural Rental Housing and the Section 514/516 Farm Labor Housing Direct Loan and Grant programs. These proposed changes are intended to align the Agency's smoke alarm requirements with the new qualifying smoke alarm standards set forth in the Consolidated Appropriations Act of 2023 (Act). The Act requires each unit of federally assisted housing to contain hardwired or 10-year non-rechargeable, sealed, tamper-resistant, battery-powered smoke alarm devices.

DATES: Comments on the proposed rule must be received on or before March 8, 2024.

ADDRESSES: Comments may be submitted electronically by the Federal eRulemaking Portal: Go to *https://www.regulations.gov* and, in the ''Search Field'' box, labeled ''Search for dockets and documents on agency actions,'' enter the following docket number: RHS–23–MFH–0014 or the RIN 0575–AD35. To submit or view public comments, click the ''Search'' button, select the ''Documents'' tab, then select the following document title: ''Revisions to the Smoke Alarm Requirements in the Section 515 Rural Rental Housing and Section 514/516 Farm Labor Housing Direct Loan Programs'' from the ''Search Results,'' and select the ''Comment'' button. Before inputting your comments, you may also review the ''Commenter's Checklist'' (optional). Insert your comments under the ''Comment'' title, click ''Browse'' to attach files (if available). Input your email address and select ''Submit Comment.'' Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''FAQ'' link.

Other Information: Additional information about Rural Development (RD) and its programs is available on the internet at *https://www.rd.usda.gov.* All comments will be available online for public inspection at the Federal eRulemaking Portal (*https://www.regulations.gov/*).

FOR FURTHER INFORMATION CONTACT: Barbara Chism, Multi-Family Housing Asset Management Division, Rural Housing Service, 1400 Independence Avenue SW, Washington, DC 20250–0782, Telephone: (202) 690–1436; Email: *Barbara.chism@usda.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The RHS, offers a variety of programs to build or improve housing and essential community facilities in rural areas. RHS offers loans, grants, and loan guarantees for single- and multi-family housing, childcare centers, fire and police stations, hospitals, libraries, nursing homes, schools, first responder vehicles and equipment, and housing for farm laborers. RHS also provides technical assistance loans and grants in partnership with non-profit organizations, Indian tribes, State and Federal government agencies, and local communities.

Title V of the Housing Act of 1949 authorized the USDA to make housing loans to farmers to enable them to provide habitable dwellings for themselves or their tenants, lessees, sharecroppers, and laborers. The USDA then expanded opportunities in rural areas, making housing loans and grants to rural residents through the Single-Family Housing (SFH) and Multi-Family Housing (MFH) Programs.

The RHS administers the MFH Section 515 Rural Rental Housing direct loan program under 7 CFR part 3560, subpart B. The Section 515 program employs a public-private partnership by providing subsidized loans at an interest rate of one percent to developers to construct or renovate affordable rental complexes in rural areas. This one percent loan keeps the debt service on the property sufficiently low to support below-market rents affordable to low-income tenants. Many of these projects also utilize other Federal, State, and local funding sources and rental subsidies such as HUD's Section 8 and low-income housing tax credit proceeds.

The RHS also operates the MFH Farm Labor Housing direct loan and grant programs under sections 514 and 516 set forth in 7 CFR part 3560, subparts L and M. The MFH Farm Labor Housing programs provide low interest loans and grants to provide housing for farmworkers. These eligible farmworkers may either live and work at the borrower's farm, including seasonal and migrant workers (''on-farm'') or they may live away from the farm (''off-farm'').

Under the current regulation, borrowers are required to install and maintain smoke alarms in all dwelling units, common use areas, and other spaces in all residential buildings included as security for an Agency loan. Borrowers must also ensure that smoke alarms are properly located to protect tenant safety and the value of the Agency's asset. Failure to maintain adequate smoke alarms may lead to injury of persons, damage to property, or a non-monetary loan default.

II. Purpose of This Regulatory Action

On December 29, 2022, the President signed into law the Consolidated Appropriations Act of 2023 (Pub. L. 117–328) (Act), which incorporated The Public and Federally Assisted Housing Fire Safety Act of 2022. This Act requires each unit and common use areas of federally assisted housing to contain hardwired or 10-year non-rechargeable, sealed, tamper-resistant battery-powered smoke alarm devices, as well as other items. The Act modifies the Housing Act of 1949 to implement these new smoke detector requirements for Section 515 Rural Rental Housing programs and Section 514/516 Farm Labor Housing Direct Loan Programs.

Public Law 117–328, div. AA, title VI, sec. 601. The RHS's current smoke alarm requirements in 7 CFR part 3560 for the MFH Direct Loan and Grant Programs have been in place since February 24, 2005, and are outdated. To achieve compliance with the new requirements set forth under the Act, the Rural Housing Service (RHS) proposes to amend its MFH Direct Loan and Grant program regulations, 7 CFR 3560.60 of subpart B and 7 CFR 3560.103(a)(3)(xx) of subpart C.

Housing repair and replacement costs in the affordable housing industry have been increasing at a steady rate due to economic changes in the open market for labor and materials. Our stakeholders will benefit from the proposed change through improved safety and prevention of potential damage resulting from smoke and fire, as well as lessen the potential for harm to visitors and residents.

This action is intended to: (1) align the smoke alarm requirements with more stringent requirements for federally assisted housing industry standards; (2) increase the safety of tenants and visitors at our properties; (3) reduce the risk of losing available affordable housing units in our rural communities due to uninhabitability caused by smoke and fire damage as a result of outdated smoke alarm devices; and (4) provide the Agency with additional protection from the loss of its security value.

III. Summary of Changes

The proposed changes are as follows:

1. Add a new paragraph (e) to § 3560.60 that cross-references § 3560.103(a)(3)(xx), which contains the new qualifying smoke alarm requirements.

2. Revise § 3560.103(a)(3)(xx) the language for smoke alarms to include the new requirements for qualifying smoke alarms.

IV. Regulatory Information

Statutory Authority

The changes in this proposed rule are authorized under division AA, title VI, section 601 of the Consolidated Appropriations Act, 2023. The Rural Rental Housing program is authorized under sections 514(k), 515(m,), 516(c) of title V of the Housing Act of 1949, as amended; 42 U.S.C. 1480 *et seq.;* and implemented under 7 CFR part 3560.

Executive Order 12372, Intergovernmental Review of Federal Programs

These loans are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. RHS conducts intergovernmental consultations for each loan in accordance with 2 CFR part 415, subpart C.

Executive Order 12866, Regulatory Planning and Review

This proposed rule has been determined to be non-significant and, therefore, was not reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988, Civil Justice Reform

This proposed rule has been reviewed under Executive Order 12988. In accordance with this rulemaking: (1) Unless otherwise specifically provided, all state and local laws that conflict with this rulemaking will be preempted; (2) no retroactive effect will be given to this rulemaking except as specifically prescribed in the rule; and (3) administrative proceedings of the National Appeals Division of the Department of Agriculture (7 CFR part 11) must be exhausted before suing in court that challenges action taken under this rulemaking.

Executive Order 13132, Federalism

The policies contained in this proposed rule do not have any substantial direct effect on 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. This proposed rule does not impose substantial direct compliance costs on state and local governments; therefore, consultation with States is not required.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This Executive order imposes requirements on RHS in the development of regulatory policies that have tribal implications or preempt tribal laws. RHS has determined that the proposed rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian tribes. Thus, this proposed rule is not subject to the requirements of Executive Order 13175. If tribal leaders are interested in consulting with RHS on this rulemaking, they are encouraged to contact USDA's Office of Tribal Relations or RD's Tribal Coordinator at: *AIAN@usda.gov* to request such a consultation.

Assistance Listing

The program affected by this regulation is listed in the Assistance Listing Catalog (formerly Catalog of Federal Domestic Assistance) under number 10.415—Rural Rental Housing Loans, 10.427—Rural Rental Assistance Payments, 10.405—Farm Labor Housing Loans and Grants.

Civil Rights Impact Analysis

Rural Development has reviewed this proposed rule in accordance with USDA Regulation 4300–004, Civil Rights Impact Analysis, to identify any major civil rights impacts the proposed rule might have on program participants on the basis of age, race, color, national origin, sex, or disability. After review and analysis of the proposed rule and available data, it has been determined that implementation of the rulemaking will not adversely or disproportionately impact very low, low- and moderate-income populations, minority populations, women, Indian tribes, or persons with disability by virtue of their race, color, national origin, sex, age, disability, or marital or familial status. No major civil rights impact is likely to result from this proposed rule.

E-Government Act Compliance

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

National Environmental Policy Act

This document has been reviewed in accordance with 7 CFR part 1970, subpart A, ''Environmental Policies.'' RHS determined that this action does not constitute a major Federal action significantly affecting the quality of the environment. In accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement (EIS) is not required.

Paperwork Reduction Act

The information collection requirements contained in this regulation have been approved by OMB and have been assigned OMB control number 0575–0189. This proposed rule contains no new reporting and recordkeeping requirements that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

Regulatory Flexibility Act

This proposed rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The undersigned has determined and certified by signature on this document that this proposed rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not involve a new or expanded program nor does it require any more action on the part of a small business than required of a large entity.

Unfunded Mandates Reform Act (UMRA)

Title II of the UMRA, Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and on the private sector. Under section 202 of the UMRA, Federal agencies generally must prepare a written statement, including cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to state, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires a Federal agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This proposed rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for state, local, and tribal governments or for the private sector. Therefore, this proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Non-Discrimination Statement Policy

Nondiscrimination Statement. In accordance with Federal civil rights laws and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Mission Areas, agencies, staff offices, employees, and institutions participating in or administering 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.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (*e.g.,* Braille, large print, audiotape, American Sign Language) should contact the responsible Mission Area, agency, staff office; or the Federal Relay Service at (800) 877–8339.

To file a program discrimination complaint, a complainant should complete a Form AD–3027, *USDA Program Discrimination Complaint Form,* which can be obtained online at *https://www.usda.gov/sites/default/files/documents/ad-3027.pdf* from any USDA office, by calling (866) 632–9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD–3027 form or letter must be submitted to USDA by:

(1) *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410; or

(2) *Fax:* (833) 256–1665 or (202) 690–7442; or

(3) *Email: program.intake@usda.gov.*

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List of Subjects in 7 CFR Part 3560

Accounting, Administrative practice and procedure, Aged, Conflicts of interest, Government property management, Grant programs—housing and community development, Insurance, Loan programs—agriculture, Loan programs—housing and community development, Low and moderate-income housing, Migrant labor, Mortgages, Nonprofit organizations, Public housing, Rent-subsidies, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, Rural Housing Service proposes to amend 7 CFR part 3560 as follows:

PART 3560—DIRECT MULTI-FAMILY HOUSING LOANS AND GRANTS

■ 1. The authority citation for part 3560 continues to read as follows:

Authority: 42 U.S.C. 1480.

Subpart B—Direct Loan and Grant Origination

■ 2. Amend § 3560.60 by adding paragraph (e) to read as follows:

§ 3560.60 Design requirements.

* * * * *

(e) *Applicable codes and standards.* All housing and related facilities must meet the qualifying smoke alarm requirements in § 3560.103(a)(3)(xx).

Subpart C—Borrower Management and Operations Responsibilities

■ 3. Amend § 3560.103 by revising paragraph (a)(3)(xx) to read as follows:

§ 3560.103 Maintaining housing projects.

(a) * * *

(3) * * *

(xx) *Smoke alarms.* The housing project must have qualifying smoke alarms which are installed in accordance with applicable codes and standards as set forth in sections 514(k), 515(m), and 516(c) of the Housing Act of 1949 (42 U.S.C. 1471 *et seq.*), in each level and in or near each sleeping area in such dwelling unit, including in basements but excepting crawl spaces and unfinished attics, and in each common area in a project containing such a dwelling unit.

(A) Dwelling units built before December 29, 2022, and not substantially rehabilitated after December 29, 2022, smoke alarms must:

(*1*) Be hardwired; or

(*2*) Use 10-year non rechargeable, nonreplaceable primary batteries, be sealed, tamper resistant, and contain silencing means; and

(*3*) Provide notification for persons with hearing loss as required by applicable standards set forth in sections 514(k), 515(m), and 516(c) of the Housing Act of 1949 (42 U.S.C. 1471 *et seq.*)

(B) Dwelling units built or substantially rehabilitated after December 29, 2022; smoke alarms must be hardwired.

* * * * *

Joaquin Altoro,

Administrator, Rural Housing Service.

[FR Doc. 2024–00073 Filed 1–5–24; 8:45 am]

BILLING CODE 3410–XV–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 52

[NRC–2024–0019]

Draft Regulatory Guide: Installation Design and Installation of Vented Lead-Acid Storage Batteries for Production and Utilization Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft Regulatory Guide (DG), DG–1421, ''Installation Design and Installation of Vented Lead-Acid Storage Batteries for Production and Utilization Facilities.'' This DG is proposed Revision 3 of Regulatory Guide 1.128, ''Installation Design and Installation of Vented Lead-Acid Storage Batteries for Nuclear Power Plants,'' and provides methods acceptable to the NRC to meet regulatory requirements for the installation design and installation of vented lead-acid storage batteries in production and utilization facilities. It endorses, with clarifications, the Institute of Electrical and Electronics Engineers (IEEE) Standard (Std.) 484–2019, ''IEEE Recommended Practice for Installation Design and Installation of Vented Lead-Acid Batteries for Stationary Applications.''

DATES: Submit comments by February 7, 2024. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2024–0019. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Michael Eudy, Office of Nuclear Regulatory Research, telephone: 301–415–3104; email: *Michael.Eudy@nrc.gov* and Sheila Ray, Office of Nuclear Reactor Regulation, telephone: 301–415–3653; email: *Sheila.Ray@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2024–0019 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2024–0019.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2024–0019 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Additional Information

The NRC is issuing for public comment a DG in the NRC's ''Regulatory Guide'' series. This series was developed to describe methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, to explain techniques that the staff uses in evaluating specific issues or postulated events, and to describe information that the staff needs in its review of applications for permits and licenses.

The DG, entitled ''Installation Design and Installation of Vented Lead-Acid Storage Batteries for Production and Utilization Facilities,'' is temporarily identified by its task number, DG–1421 (ADAMS Accession No. ML23277A276).

This revision of the guide (Revision 3) endorses, with clarifications, IEEE Std. 484–2019 and applies to production and utilization facilities licensed under part 50 and part 52 of title 10 of the *Code of Federal Regulations* (10 CFR) within the scope of this RG. The previous version of this RG (ADAMS Accession No. ML070080013) endorsed, with certain clarifications, IEEE Std. 484–2002. In 2019, the IEEE revised IEEE Std. 484 to add information on thermal factors of influence (exposure temperature, ambient temperature, temperature gradient, and rate of temperature change) and safety provisions (*e.g.,* electrical hazards, shock hazards, ground fault hazards, arc flash hazards, chemical hazards), modifications to the personal protective equipment section, major changes to mounting and ventilation sections, new provisions on connection to direct current systems and spare cells, and new provisions for material handling and hazard assessment, as well as many other updates, corrections, and clarifications to various sections. The revised IEEE standard also provides two new normative annexes.

The staff is also issuing for public comment a draft regulatory analysis (ADAMS Accession No. ML23277A279). The staff developed a regulatory analysis to assess the value of issuing or revising a regulatory guide as well as alternative courses of action.

As noted in the **Federal Register** on December 9, 2022 (87 FR 75671), this document is being published in the ''Proposed Rules'' section of the **Federal Register** to comply with publication requirements under 1 CFR chapter I.

III. Backfitting, Forward Fitting, and Issue Finality

Issuance of DG–1421, if finalized, would not constitute backfitting as defined in 10 CFR 50.109, ''Backfitting,'' and as described in NRC Management Directive (MD) 8.4, ''Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests''; affect the issue finality of an approval issued under 10 CFR part 52, ''Licenses, Certifications, and Approvals for Nuclear Power Plants''; or constitute forward fitting as that term is defined and described in MD 8.4, because, as explained in this DG, licensees would not be required to comply with the positions set forth in this DG.

IV. Submitting Suggestions for Improvement of Regulatory Guides

A member of the public may, at any time, submit suggestions to the NRC for improvement of existing RGs or for the development of new RGs. Suggestions can be submitted on the NRC's public website at *https://www.nrc.gov/reading-rm/doc-collections/reg-guides/contactus.html.* Suggestions will be considered in future updates and enhancements to the ''Regulatory Guide'' series.

Dated: January 3, 2024.

For the Nuclear Regulatory Commission.

Meraj Rahimi,

Chief, Regulatory Guide and Programs Management Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2024–00145 Filed 1–5–24; 8:45 am]

BILLING CODE 7590–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 131

[EPA–HQ–OW–2023–0222; FRL 10760–01–OW]

RIN 2040–AG30

Water Quality Standards To Protect Aquatic Life in the Delaware River

Correction

In proposed rule document 2023–27758, appearing on pages 88315–88336 in the issue of Thursday, December 21, 2023, make the following correction:

On page 88326, in the table titled ''Table 7: Alternative 1: Dissolved Oxygen Criteria Expressed as Concentration (mg/L)'', the table is corrected to appear as set forth below:

TABLE 7—ALTERNATIVE 1: DISSOLVED OXYGEN CRITERIA EXPRESSED AS CONCENTRATION

[mg/L]

Season	Water temperature (°C)	Magnitude (mg/L)	Duration	Exceedance frequency
Spawning and Larval Development *(March 1–June 30)*.	*23.3 (14.7)	*5.6 (6.7)	Daily Average	10% *(12 Days Cumulative)*.
Juvenile Development *(July 1–October 31)* ...	+N/A	5.4	Daily Average	10% *(12 Days Cumulative)*.
	+N/A	6.1	Daily Average	50% *(61 Days Cumulative)*.
Overwintering *(November 1–February 28/29)*	*12.4 (5.6)	*7.0 (8.3)	Daily Average	10% *(12 Days Cumulative)*.

*The 90th percentile of seasonal water temperature and corresponding criterion is used for the main estimate, while the average water temperature and corresponding criterion is shown in parentheses.

+Water temperature is not applicable during the *Juvenile Development* season because the criteria magnitudes are derived from the EPA's Atlantic Sturgeon cohort model, described in section IV.C.1 of this preamble.

[FR Doc. C1–2023–27758 Filed 1–5–24; 8:45 am]

BILLING CODE 0099–10–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

[Docket No.: IHS–FRDOC–0001]

42 CFR Part 136

RIN 0917–AA24

Removal of Outdated Regulations

AGENCY: Indian Health Service, Department of Health and Human Services.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Indian Health Service (IHS) of the Department of Health and Human Services (HHS or ''the Department'') is issuing this Notice of Proposed Rulemaking (NPRM) proposing the removal of regulations appearing in the Code of Federal Regulations (CFR). These outdated regulations do not align with the current statutory text.

DATES: Comments due on or before March 8, 2024.

ADDRESSES: You may submit comments to this proposed rule, identified by RIN 0917–AA24 by any of the following methods:

- *Federal eRulemaking Portal.* You may submit electronic comments at *https://www.regulations.gov* by searching for the Docket ID number IHS–FRDOC–0001. Follow the instructions *https://www.regulations.gov* online for submitting comments through this method.
- *Regular, Express, or Overnight Mail:* You may mail comments to Indian Health Service, Joshuah Marshall, Senior Advisor to the Director, Indian Health Service, 5600 Fishers Lane, Rockville, MD 20857, email: *joshuah.marshall@ihs.gov.*

All comments received by the methods and due date specified above will be posted without change to content to *https://www.regulations.gov,* including any personal information provided about the commenter, and such posting may occur before or after the closing of the comment period. Comments that make threats to individuals or institutions or suggest that the individual will take harmful actions will not be posted.

Docket: For complete access to background documents, posted comments, and the plain-language summary of the proposed rule of not

more than 100 words in length required by the Providing Accountability Through Transparency Act of 2023, go to *https://www.regulations.gov* and search for Docket ID number IHS–FRDOC–0001.

FOR FURTHER INFORMATION CONTACT: Joshuah Marshall, Senior Advisor to the Director, Indian Health Service, 5600 Fishers Lane, Rockville, MD 20857, email: *joshuah.marshall@ihs.gov,* phone: 301–443–7252.

SUPPLEMENTARY INFORMATION:

Background

On January 27, 1982, IHS published regulations imposing restrictions on use of Federal funding for certain abortions, currently codified at 42 CFR 136.51–.57.[1] These regulations implementing IHS program authority pursuant to 25 U.S.C. 13 and 42 U.S.C. 2001 allowed the use of IHS funds for abortions only when a physician certified that ''the life of the mother would be endangered if the fetus were carried to term.'' This restriction was to be consistent with a provision in the annual appropriations legislation for the Departments of Labor, Health and Human Services, and Education, sometimes referred to as the ''Hyde Amendment,'' that restricted the use of Federal funds for certain abortions, which did not automatically apply to IHS funding.[2] The purpose of these IHS regulations was specifically ''to conform IHS practice to that of the rest of the Department [of Health and Human Services] in accordance with the applicable congressional guidelines.'' [3] In 1988, Congress enacted 25 U.S.C. 1676, explicitly extending any limitations on the use of funds included in HHS appropriations laws with respect to the performance of abortions to apply to funds appropriated to IHS. As such, IHS became subject to the Hyde Amendment as included in annual appropriations legislation.

Since the IHS promulgated these regulations in 1982, Congress has repeatedly revised annual restrictions related to the use of Federal funds for certain abortions. In fiscal year 1994, for instance, Congress revised the Hyde Amendment to include additional exceptions to the general prohibition on the use of Federal funds for abortions, including in instances in which a pregnancy is the result of an act of rape or incest.[4] Similarly, in fiscal year 1998, Congress also altered the standards for when the ''life of the mother'' may be considered an exception.[5] The Hyde Amendment currently provides that no covered funds ''shall be expended for any abortion'' or ''for health benefits coverage that includes coverage of abortion,'' except ''if the pregnancy is the result of an act of rape or incest; or . . . in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.'' [6]

The current IHS regulation does not align with the current text of the Hyde Amendment or with 25 U.S.C. 1676. The IHS has complied with, and will continue to comply with, the statutory exceptions and has clarified its compliance with the statutory limitations through policy directives,[7] and now seeks to remove these outdated regulations in their entirety.[8] Doing so will eliminate any potential confusion regarding the legal effect of these outdated regulations and will also achieve the goal of aligning IHS guidelines with the applicable Congressional guidelines governing HHS. These regulations are no longer necessary to achieve that objective, given Congress's enactment of 25 U.S.C. 1676, which independently aligns relevant restrictions applicable to the IHS and HHS. At this time, the IHS is not proposing any further changes to these regulations and is not proposing to amend the regulations to reflect the standard set out in the current Hyde Amendment. Regulations on this subject are not necessary to implement the IHS's authority. Nor are they necessary to comply with statutory directives. Moreover, amending the regulations to reflect the current Hyde Amendment could cause additional confusion in the future if Congress changes the annual appropriations language, as it has in the past.

Executive Orders 12866, 13563, and 14094

Executive Order 12866, as amended by Executive Order 14094, and Executive Order 13563 direct agencies to assess all costs and benefits of available regulatory alternatives. Section 3(f) of Executive Order 12866, as amended by Executive Order 14094, defines a ''significant regulatory action'' as any regulatory action that is likely to result in a rule that may: (1) have an annual effect on the economy of $200 million or more (adjusted every 3 years by the Administrator of the Office of Information and Regulatory Affairs (OIRA) for changes in gross domestic product); or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or Tribal Governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise legal or policy issues for which centralized review would meaningfully further the President's priorities or the principles set forth in the Executive Order, as specifically authorized in a timely manner by the Administrator of OIRA in each case. OIRA has determined that this proposed rule is a significant regulatory action as defined by Executive Order 12866 Section 3(f).

Regulatory Flexibility Act

This action will not have a significant economic impact on Indian health programs. Therefore, the regulatory flexibility analysis provided for under the Regulatory Flexibility Act is not required.

Executive Order 13132 (Federalism)

Executive Order 13132, ''Federalism,'' establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct requirement costs on State and local governments or has federalism implications. This proposed rule would simply remove the existing, outdated regulations. HHS has determined that

[1] Final Rule, *Provision of Abortion Services by the Indian Health Service,* 47 FR 4016 (Jan. 27, 1982).

[2] Continuing Appropriations for FY 1981, Public Law 96–369 (1980); Continuing Appropriations Act for FY 1982, Public Law 97–92 (1981).

[3] Final Rule, *Provision of Abortion Services by the Indian Health Service,* 47 FR 4016 (Jan. 27, 1982).

[4] Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1994, Public Law 103–112, 509, 107 Stat. 1082, 1113 (1993).

[5] Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1998, Public Law 105–78, 509(b), 111 Stat. 1467, 1516 (1997).

[6] Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2023, Public Law 117–328, 506–507, 136 Stat. 4459, 4908 (2022); Continuing Appropriations Act, 2024 and Other Extensions Act, Public Law 118–15 (2023).

[7] Indian Health Service Circular No. 22–15, Use of Indian Health Service Funds for Abortions (Jun. 30, 2022), *https://www.ihs.gov/ihm/circulars/2022/use-of-indian-health-service-funds-for-abortions/.*

[8] The regulations also speak to recordkeeping requirements and confidentiality of information. However, these provisions are unnecessary to maintain, because recordkeeping and confidentiality of information are independently required by other laws and regulations that will remain in effect. See, *e.g.,* 45 CFR parts 160, 164 (Standards for Privacy of Individually Identifiable Health Information (The Privacy Rule)).

this proposed rule would not impose such costs or have any federalism implications.

Executive Order 13175

This rule does not have a substantial direct effect on one or more Indian Tribes under Executive Order 13175, because it only removes outdated regulations that do not align with the current statutory text of the Hyde Amendment or with 25 U.S.C. 1676.

National Environmental Policy Act

HHS had determined that this proposed rule would not have a significant impact on the environment.

Paperwork Reduction Act

This action does not affect any information collections.

List of Subjects in 42 CFR Part 136

Employment, Government procurement, Health care, Health facilities, Indians, Penalties, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Department of Health and Human Services proposes to amend 42 CFR part 136 by removing Subpart F as follows:

PART 136—INDIAN HEALTH

■ 1. The authority citation for part 136 continues to read as follows:

Authority: 25 U.S.C. 13; sec. 3, 68 Stat. 674 (42 U.S.C., 2001, 2003); Sec. 1, 42 Stat. 208 (25 U.S.C. 13); 42 U.S.C. 2001, unless otherwise noted.

Subpart F—[Removed and Reserved]

■ 2. Remove and reserve Subpart F, consisting of §§ 136.51 through 136.57.

Dated: December 28, 2023.

Xavier Becerra,

Secretary, Department of Health and Human Services.

[FR Doc. 2023–28948 Filed 1–5–24; 8:45 am]

BILLING CODE 4166–14–P

Notices

Federal Register
Vol. 89, No. 5
Monday, January 8, 2024

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

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–41–2023]

Foreign-Trade Zone 277—Western Maricopa County, Arizona; Withdrawal of Application for Expansion (New Magnet Site) Under Alternative Site Framework

Notice is hereby given of the withdrawal of the application submitted by the Greater Maricopa Foreign Trade Zone, Inc., grantee of FTZ 277, requesting authority to expand its zone under the alternative site framework to include a new magnet site in El Mirage, Arizona. The application was docketed on June 26, 2023 (88 FR 42290, June 30, 2023). The withdrawal was requested by the grantee on January 2, 2024, following notification pursuant to 15 CFR 400.33(e)(1) of the examiner's preliminary recommendation not to approve the application.

Dated: January 2, 2024.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2024–00088 Filed 1–5–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 05–2A001]

Export Trade Certificate of Review

ACTION: Notice of relinquishment of the Export Trade Certificate of Review for Central America Poultry Export Quota, Inc. (''CA–PEQ''), Application No. 05–2A001.

SUMMARY: The Secretary of Commerce, through the Office of Trade and Economic Analysis (''OTEA'') of the International Trade Administration, has received notice of the relinquishing of an Export Trade Certificate of Review (''Certificate'').

FOR FURTHER INFORMATION CONTACT: Joseph Flynn, Director, OTEA, International Trade Administration, (202) 482–5131 (this is not a toll-free number) or email at *etca@trade.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4011–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from State and Federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. The regulations implementing Title III are found at 15 CFR part 325. Pursuant to 15 CFR 325.15, a Certificate holder may relinquish a Certificate at any time through written notice to the Secretary. The Certificate will cease to be effective on the day the Secretary receives the notice.

Summary of Action

On December 5, 2023, CA–PEQ relinquished its Certificate (Application No. 05–2A001) pursuant to 15 CFR 325.15. This publication serves as public notice that the Certificate was relinquished and ceased to be effective on December 5, 2023.

Dated: January 3, 2024.

Joseph Flynn,

Director, Office of Trade and Economic Analysis, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 2024–00140 Filed 1–5–24; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–520–807]

Circular Welded Carbon-Quality Steel Pipe From the United Arab Emirates: 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/exporters of circular welded carbon-quality steel pipe (CWP) from the United Arab Emirates (UAE) subject to this administrative review made sales of subject merchandise at less than normal value (NV) during the period of review (POR), December 1, 2021, through November 30, 2022. We invite interested parties to comment on these preliminary results.

DATES: Applicable January 8, 2024.

FOR FURTHER INFORMATION CONTACT: Rebecca Janz or Sofia Pedrelli, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2972 or (202) 482–4301, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 19, 2016, Commerce published in the **Federal Register** the antidumping duty order on CWP from the UAE.[1] On December 1, 2022, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the *Order*.[2] On February 2, 2023, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the *Order* with respect to seven companies.[3] On March 14, 2023, Commerce selected Conares Metal Supply Limited (Conares) and Universal Tube and Plastic Industries, Ltd./THL Tube and Pipe Industries LLC/KHK Scaffolding and Formwork LLC (collectively, Universal) for individual examination as mandatory respondents in this administrative review.[4] On April

[1] *See Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman, Pakistan, and the United Arab Emirates: Amended Final Affirmative Antidumping Duty Determination and Antidumping Duty Orders,* 81 FR 91906 (December 19, 2016) (*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).

[4] *See* Memorandum, ''Selection of Respondents for Individual Examination,'' dated March 14, 2023,

Continued

3, 2023, Commerce extended the preliminary results of this review until December 29, 2023.[5]

Scope of the Order

The products covered by the *Order* are CWP from the UAE. A full description of the scope of *Order* is contained in the Preliminary Decision Memorandum.[6]

Methodology

Commerce is conducting this review in accordance with sections 751(a)(1)(B) and (2) of the Tariff Act of 1930, as amended (the Act). Export price and constructed export price are 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 discussed in the Preliminary Decision Memorandum is attached as an appendix 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.*

Rate for Non-Examined Companies

The Act and Commerce's regulations do not address the establishment of a rate to be applied to 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 a market economy investigation, for guidance when calculating the rate for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely on the basis of facts available. In this administrative review, we preliminarily calculated weighted-average dumping margins for the mandatory respondents, Conares and Universal, that are not zero, *de minimis,* or based entirely on total facts available. Accordingly, Commerce is preliminarily assigning to the companies not individually examined, listed in the chart below, a margin of 1.06 percent which is the weighted-average of Conares' and Universal's calculated weighted-average dumping margins.[7]

Preliminary Results of Review

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist for the period December 1, 2021, through November 30, 2022:

Exporter/producer	Weighted-average dumping margin (percent)
Conares Metal Supply Limited	0.96
Universal Tube and Plastic Industries, Ltd; THL Tube and Pipe Industries LLC; KHK Scaffolding and Framework LLC	1.09
Review-Specific Average Rate Applicable to the Following Companies	
Ajmal Steel Tubes & Pipes Ind., L.L.C	1.06
K.D. Industries Inc	1.06
TSI Metal Industries L.L.C	1.06

Disclosure and Public Comment

We intend to disclose the calculations performed to parties within five days after public announcement of the preliminary results.[8] Interested parties may submit case briefs or other written comments to Commerce no later than 30 days after the date of publication of this notice.[9] 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.[10] 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.[11]

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 administrative 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.[12] 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

at 2. Commerce previously determined that Universal is a single entity consisting of the following three producers/exporters of subject merchandise: Universal Tube and Plastic Industries, Ltd.; KHK Scaffolding and Formwork LLC; and Universal Tube and Pipe Industries LLC. *See Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Final Determination of Sales at Less Than Fair Value,* 81 FR 75030 (October 28, 2016), and accompanying Issues and Decision Memorandum. Additionally, we previously determined that THL Tube and Pipe Industries LLC is the successor-in-interest to Universal Tube and Pipe Industries LLC. *See Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Final Results of Antidumping Duty Administrative Review; 2016–2017,* 84 FR 44845 (August 27, 2019).

[5] *See* Memorandum, ''Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,'' dated August 3, 2023.

[6] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review; 2021–2022: Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[7] For more information regarding the calculation of this margin, *see* Memorandum, ''Calculation of the Weighted-Average Dumping Margin for Non-Selected Companies for the Preliminary Results,'' dated concurrently with this notice. As the weighting factor, we relied on the publicly ranged sales data reported in the quantity and value charts submitted by Conares and Universal.

[8] *See* 19 CFR 351.224(b).

[9] *See* 19 CFR 351.309(c)(1)(ii).

[10] *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*).

[11] *See* 19 351.309(c)(2) and (d)(2).

[12] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

included in the issues and decision memorandum that will accompany the final determination in this investigation. 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).[13]

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. Hearing 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. Oral presentations at the hearing will be limited to issues raised in the 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. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Assessment Rates

Upon completion of the final results of this administrative review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise covered by this review.

If a respondent's weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.50 percent) in the final results of this review, we intend to calculate an importer-specific assessment rate based on the ratio of the total amount of dumping calculated for each importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).[14] If the respondent has not reported entered values, we will calculate a per-unit assessment rate for each importer by dividing the total amount of dumping calculated for the examined sales made to that importer by the total quantity associated with those sales. To determine whether an importer-specific, per-unit assessment rate is *de minimis,* in accordance with 19 CFR 351.106(c)(2), we also will calculate an importer-specific *ad valorem* ratio based on estimated entered values. If either of the respondents' weighted average dumping margin or an importer-specific assessment rate is zero or *de minimis* in the final results of review, we intend to instruct CBP to liquidate appropriate entries without regard to antidumping duties.[15]

For entries of subject merchandise during the POR produced by each individually examined respondent for which the producer did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate (5.95 percent) if there is no rate for the intermediate company(ies) involved in the transaction.[16]

For the companies identified above that were not selected for individual examination, we will instruct CBP to liquidate entries at the rate established after the completion of the final results of this review.

The final results of this administrative review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review and for future deposits of estimated duties, where applicable.[17]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the companies listed above will be equal to the weighted-average dumping margin established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for merchandise exported by companies not covered in this review but covered in a prior segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published in the completed segment for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the producer is, then the cash deposit rate will be the rate established in the completed segment for the most recent period for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 5.95 percent, the all-others rate established in the LTFV investigation.[18] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Final Results of Review

Unless the deadline is otherwise extended, Commerce intends to issue the final results of this administrative review, including the results of its analysis of issues raised by interested parties in the written comments, within 120 days after the date of publication of these preliminary results in the **Federal Register**.[19]

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: December 29, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

[13] *See APO and Final Service Rule.*

[14] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101, 8103 (February 14, 2012).

[15] *Id.,* 77 FR at 8102–03; *see also* 19 CFR 351.106(c)(2).

[16] *See Order; see also Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[17] *See* section 751(a)(2)(C) of the Act.

[18] *See Order.*

[19] *See* section 751(a)(3)(A) of the Act; and 19 CFR 351.213(h).

[FR Doc. 2024–00083 Filed 1–5–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–831]

Stainless Steel Sheet and Strip in Coils From Taiwan: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2021–2022

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that the producers/exporters subject to this administrative review made sales of subject merchandise at less than normal value during the period of review (POR), July 1, 2021, through June 30, 2022. Additionally, Commerce determines that four companies for which we initiated a review had no shipments during the POR.

DATES: Applicable January 8, 2024.

FOR FURTHER INFORMATION CONTACT: Rebecca Janz, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2972.

SUPPLEMENTARY INFORMATION:

Background

On April 6, 2023, Commerce published in the **Federal Register** the *Preliminary Results* of the 2021–2022 administrative review [1] of the antidumping duty order on Stainless Steel Sheet and Strip in Coils from Taiwan.[2] In May 2023, domestic interested parties [3] and CME Acquisitions (CME), an importer of the subject merchandise, submitted case and rebuttal briefs.[4] On December 12, 2023, Commerce extended the time period for issuing the final results of this review until December 29, 2023.[5] For a complete description of the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[6] Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

This review covers 61 producers and/or exporters of the subject merchandise. Commerce selected two companies, Lien Kuo Metal Industries Co., Ltd. (Lien Kuo) and S More Steel Materials Co., Ltd. (S More) for individual examination.[7] Four companies, Yieh Mau Corporation (Yieh Mau), Yuen Chang Stainless Steel Co., Ltd. (Yuen Chang), and Yieh Phui Enterprise Co., Ltd. (Yieh Phui), and Yieh United Steel Corporation (YUSCO) reported having no shipments during the POR, *see* ''Determination of No Shipments'' section below. The remaining producers and/or exporters not selected for individual examination are listed in the ''Final Results of the Review'' section of this notice.

Scope of the Order

The merchandise subject to the *Order* is certain stainless steel sheet and strip in coils from Taiwan. A complete description of the scope of the *Order* is contained in the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by parties in this administrative review are addressed in the Issues and Decision Memorandum and are listed 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 *http://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.*

Final Determination of No Shipments

In the *Preliminary Results,* Commerce preliminarily determined that Yieh Mau Corporation (Yieh Mau), Yieh Phui Enterprise Co., Ltd. (Yieh Phui), Yuen Chang Stainless Steel Co., Ltd. (Yuen Chang), and Yieh United Steel Corporation (YUSCO) made no shipments of subject merchandise into the United States during the POR.[8] We received no comments from interested parties regarding our preliminary determination and do not have any information on the record to contradict this determination. Therefore, we continue to find that Yieh Mau, Yieh Phui, Yuen Chang, and YUSCO made no shipments of subject merchandise during the POR. Accordingly, consistent with Commerce's practice, we intend to instruct U.S. Customs and Border Protection (CBP) to liquidate any existing entries of subject merchandise produced by Yieh Mau, Yieh Phui, Yuen Chang, or YUSCO, but exported by other parties, at the rate for the intermediate reseller, if available, or at the all-others rate.[9]

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding the *Preliminary Results,* we revised the weighted average margin assigned to the respondents not selected for individual examination.[10] For detailed information, *see* the Issues and Decision Memorandum.

Rate for Non-Selected Respondents

For the rate assigned to companies not selected for individual examination in an administrative review, generally, Commerce looks to section 735(c)(5) of the Act which provides instructions for calculating the all-others rate in an investigation. Under section 735(c)(5)(A) of the Act, the all-others rate is normally ''an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any

[1] *See Stainless Steel Sheet and Strip in Coils from Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2020–2021,* 88 FR 20481 (April 6, 2023) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See Notice of Antidumping Duty Order; Stainless Steel Sheet and Strip in Coils from United Kingdom, Taiwan, and South Korea,* 64 FR 40555 (July 27, 1999) (*Order*).

[3] The domestic interested parties are Outokumpu Stainless USA, LLC and North American Stainless (hereinafter, domestic interested parties).

[4] *See* Domestic Interested Parties' Letter, ''Case Brief Submitted on Behalf of Domestic Interested Parties,'' dated May 8, 2023; *See* CME's Letter, ''CME Reply Brief in Support of Commerce's Preliminary Results,'' dated May 15, 2023.

[5] *See* Memorandum, ''Fourth Extension of Deadline for Final Results of Antidumping Duty Administrative Review,'' dated December 12, 2023; *see also* Memorandum, ''Extension of Deadline for Final Results of Antidumping Duty Administrative Review,'' dated July 27, 2023; and Memorandum, ''Second Extension of Deadline for Final Results of Antidumping Duty Administrative Review,'' dated October 26, 2023; and Memorandum, ''Third Extension of Deadline for Final Results of Antidumping Duty Administrative Review,'' dated November 29, 2023.

[6] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the 2020–2021 Administrative Review of the Antidumping Duty Order on Stainless Steel Sheet and Strip in Coils from Taiwan,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[7] *See* Memorandum, ''Respondent Selection,'' dated October 7, 2022.

[8] *See Preliminary Results,* 88 FR at 20482.

[9] *See, e.g., Magnesium Metal from the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review,* 75 FR 26922, 26923 (May 13, 2010), unchanged in *Magnesium Metal from the Russian Federation: Final Results of Antidumping Duty Administrative Review,* 75 FR 56989 (September 17, 2010).

[10] *See* Issues and Decision Memorandum at Comment 2.

zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.'' Under section 735(c)(5)(B) of the Act, if the estimated dumping margins established for all exporters and producers individually investigated are zero or *de minimis* margins, or are determined entirely under section 776, the administering authority may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including averaging the dumping margins determined for the exporters and producers individually investigated.

For the final results of this administrative review, we continue to base the weighted-average dumping margins for Lien Kuo and S More the mandatory respondents in this review, entirely on facts otherwise available with adverse inferences (AFA). However, while we preliminarily found that it was not appropriate to assign this rate to the non-selected companies under review, for these final results of review, we find that the mandatory respondents' AFA rate is reasonably reflective of non-selected companies' potential dumping margins during the POR. Therefore, we are assigning a margin of 21.10 percent to the companies not individually examined (*see* Appendix II for a full list of these companies). For further discussion, *see* the Issues and Decision Memorandum.

Final Results of Review

As a result of this review, we determine that the following weighted-average dumping margins exist for the period July 1, 2021, through June 30, 2022: [11]

Exporter and/or producer	Weighted-average dumping margin (percent)
Lien Kuo Metal Industries Co., Ltd	21.10
S More Steel Materials Co., Ltd	21.10
Companies Not Individually Examined	21.10

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with the final results within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of the final results in the **Federal Register**, in accordance with 19 CFR 351.224(b).

[11] *See* Appendix II for a full list of companies not individually examined in this review.

However, because Commerce applied total AFA to the mandatory respondents in this administrative review, and the applied AFA rate is based on a rate calculated for a respondent in a prior segment of this proceeding, there are no calculations to disclose.

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1), Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. For the companies that were not selected for individual examination, we will instruct CBP to assess antidumping duties at the assessment rate assigned to the companies, based on the methodology described in the ''Rate for Non-Selected Companies'' section, above. 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]

As indicated above, for Yieh Mau, Yieh Phui, Yuen Chang, and YUSCO, we will instruct CBP to liquidate any existing entries of merchandise produced by these companies, but exported by other parties, at the rate for the intermediate reseller, if available, or at the all-others rate.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

Upon publication of this notice in the **Federal Register**, the following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the companies subject to this review will be equal to the weighted-average dumping margin established in the final results of this 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 published in the completed segment for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the producer has been covered in a prior completed segment of this proceeding, then the cash deposit rate will be the rate established in the completed segment for the most recent period for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 12.61 percent, the all-others rate established in the LTFV investigation for 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 duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice serves as the only 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), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of return/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 this notice in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.221(b)(5).

[12] *See* section 751(a)(2)(C) of the Act.

[13] *See Order.*

Dated: December 29, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

Appendix II

List of Companies Not Selected for Individual Examination

1. Broad International Resources Ltd.
2. Chain Chon Industrial Co., Ltd.
3. Cheng Feng Plastic Co., Ltd.
4. Chia Far Industrial Factory Co., Ltd.
5. Chien Shing Stainless Co.
6. China Steel Corporation
7. Chung Hung Steel Corp
8. Chyang Dah Stainless Co., Ltd.
9. Dah Shi Metal Industrial Co., Ltd.
10. Da-Tsai Stainless Steel Co., Ltd.
11. DB Schenker (HK) Ltd. Taiwan Branch.
12. DHV Technical Information Co., Ltd.
13. Froch Enterprises Co., Ltd.
14. Gang Jou Enterprise Co., Ltd.
15. Genn Hann Stainless Steel Enterprise Co., Ltd.
16. Goang Jau Shing Enterprise Co., Ltd.
17. Goldioceans International Co., Ltd.
18. Gotosteel Ltd.
19. Grace Alloy Corp.
20. Hung Shuh Enterprises Co., Ltd.
21. Hwang Dah Steel Inc.
22. Jie Jin Stainless Steel Industry Co., Ltd.
23. JJSE Co., Ltd.
24. KNS Enterprise Co., Ltd.
25. Lancer Ent. Co., Ltd.
26. Lien Chy Laminated Metal Co., Ltd.
27. Lih Chan Steel Co., Ltd.
28. Lung An Stainless Steel Ind. Co., Ltd.
29. Master United Corp.
30. Maytun International Corp.
31. NKS Steel Ind. Ltd.
32. PFP Taiwan Co., Ltd.
33. Po Chwen Metal.
34. Prime Rocks Co., Ltd.
35. Shih Yuan Stainless Steel Enterprise Co., Ltd.
36. Silineal Enterprises Co., Ltd.
37. Stanch Stainless Steel Co., Ltd.
38. Ta Chen Stainless Pipe Co., Ltd.
39. Tah Lee Special Steel Co., Ltd.
40. Taiwan Nippon Steel Stainless.
41. Tang Eng Iron Works.
42. Teng Yao Hardware Industrial Co., Ltd.
43. Tibest International Inc.
44. Ton Yi Industrial Corp
45. Tsai See Enterprise Co., Ltd.
46. Tung Mung Development Co., Ltd.[14]
47. Vasteel Enterprises Co., Ltd.
48. Vulcan Industrial Corporation.
49. Wuu Jing Enterprise Co., Ltd.
50. Yc Inox Co., Ltd.
51. Yes Stainless International Co., Ltd.
52. Yieh Trading Corp.
53. Yu Ting Industries Co., Ltd.
54. Yue Seng Industrial Co., Ltd.
55. Yung Fa Steel & Iron Industry Co., Ltd.

[FR Doc. 2024–00086 Filed 1–5–24; 8:45 am]

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[14] Stainless steel sheet and strip in coils produced and exported by Tung Mung Development Co., Ltd. were excluded from the *Order,* effective October 16, 2002. *See Notice of Amended Final Determination in Accordance with Court Decision of the Antidumping Duty Investigation of Stainless Steel Sheet and Strip in Coils from Taiwan,* 69 FR 67311, 67312 (November 17, 2004). Accordingly, the rate assigned for Tung Mung Development Co., Ltd. in this review is only for where the company was the producer or exporter of subject merchandise but not both.

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; NIST Associates Information System (NAIS)

AGENCY: National Institute of Standards and Technology (NIST), 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 March 8, 2024.

ADDRESSES: Interested persons are invited to submit written comments by mail to Maureen O'Reilly, Management Analyst, NIST to *PRAcomments@doc.gov.* Please reference OMB Control Number 0693–0067 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 Xinyun (Cindy) Gong, IT Specialist, DOC/NIST/TPO 100 Bureau Dr., Gaithersburg, MD 20899, Mailstop 2200, 301–975–4313, *cindy.gong@nist.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

NIST Associates (NA) will include guest researchers, research associates, contractors, and other non-NIST employees that require access to NIST campuses or NIST resources. The NIST Associates Information System (NAIS) information collection instrument(s) are completed by the incoming NAs. The NAs will be requested to provide personal identifying data including home address, date and place of birth, gender, passport number, Issuing Country, Passport Expiration date, employer name and address, and basic security information, and provide CV/Resume and Passport ID page along with other pertinent data information. The data provided by the collection instruments will be inputted into NAIS, which automatically populates the appropriate forms, and is routed through the approval process. NIST's Office of Security receives security forms through the NAIS process and is able to allow preliminary access to NAs to the NIST campuses or resources. The data collected will also be the basis for further security investigations as necessary.

II. Method of Collection

The information is collected in paper format.

III. Data

OMB Control Number: 0693–0067.

Form Number(s): None.

Type of Review: Revision of a current information collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 4,000.

Estimated Time per Response: 35–40 minutes.

Estimated Total Annual Burden Hours: 2,083.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Mandatory.

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. 2024–00108 Filed 1–5–24; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

National Artificial Intelligence Advisory Committee; Law Enforcement Subcommittee

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The National Institute of Standards and Technology (NIST) announces that the National Artificial Intelligence Advisory Committee Law Enforcement Subcommittee (NAIAC–LE or Subcommittee) will hold an open meeting in-person and via web conference on January 19, 2024, from 1 p.m. to 2:30 p.m. eastern time. The primary purpose of this meeting is for the Subcommittee Members to report the working group's findings, identify actionable recommendations and discuss updates on goals and deliverables. The final agenda will be posted to the NAIAC website: *ai.gov/naiac/.*

DATES: The meeting will be held on Friday, January 19, 2024, from 1 p.m.–2:30 p.m. eastern time.

ADDRESSES: The meeting will be held in-person and via web conference from the Miami Police Department, 400 NW 2nd Avenue, Miami, Florida 33128. For instructions on how to attend and/or participate in the meeting, please see the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Alicia Chambers, Committee Liaison Officer and Designated Federal Officer, National Institute of Standards and Technology, 100 Bureau Drive, MS 8900, Gaithersburg, MD 20899, *alicia.chambers@nist.gov* or 301–975–5333. Please direct any inquiries to *naiac@nist.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. 1001 *et seq.,* notice is hereby given that the NAIAC–LE will meet on Friday, January 19, 2024, from 1 p.m.–2:30 p.m. eastern time. The meeting will be open to the public and will be held in-person and via web conference. The primary purpose of this meeting is for the Subcommittee Members to report the working group's findings, identify actionable recommendations and discuss updates on goals and deliverables. The final agenda and meeting time will be posted to the NAIAC website: *ai.gov/naiac/.*

The NAIAC–LE is authorized by section 5104 of the National Artificial Intelligence Initiative Act of 2020 (Pub. L. 116–283), in accordance with the provisions of the Federal Advisory Committee Act, as amended (FACA), 5 U.S.C. 1001 *et seq.* The Subcommittee advises the President through NAIAC on matters related to the development of artificial intelligence relating to law enforcement. Additional information on the NAIAC–LE is available at *ai.gov/naiac/.*

Comments: Individuals and representatives of organizations who would like to offer comments and suggestions related to items on the Subcommittee's agenda for this meeting are invited to submit comments in advance of the meeting. Approximately ten minutes will be reserved for public comments, which will be read on a first-come, first-served basis. Please note that all comments submitted via email will be treated as public documents and will be made available for public inspection. All comments must be submitted via email with the subject line ''January 19, 2024, NAIAC–LE Meeting Comments'' to *naiac@nist.gov* by 5 p.m. eastern time, Thursday, January 18, 2024. NIST will not accept comments accompanied by a request that part or all of the comment be treated confidentially because of its business proprietary nature or for any other reason. Therefore, do not submit confidential business information or otherwise sensitive, protected, or personal information, such as account numbers, Social Security numbers, or names of other individuals.

Virtual Admittance Instructions: The meeting will be broadcast via web conference. Registration is required to view the web conference. Instructions to register will be made available on *ai.gov/naiac/#MEETINGS.* Registration will remain open until the conclusion of the meeting.

In-Person Admittance Instruction: Limited space is available on a first-come, first-served basis for anyone who wishes to attend in person. Registration is required for in-person attendance. Registration details will be posted at *ai.gov/naiac/#MEETINGS.* Registration for in-person attendance will close at 5 p.m. eastern time on Thursday, January 18, 2024.

Tamiko Ford,

NIST Executive Secretariat.

[FR Doc. 2024–00116 Filed 1–5–24; 8:45 am]

BILLING CODE 3510–13–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; Weather Modification Activities Reports

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 March 8, 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–

0025 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 the OAR Weather Program Office, Attn: Jessie Carman, 1315 East West Hwy., Bldg. SSMC3, Silver Spring, MD 20910–3282, (202) 936–6085, *Weather.Modification@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This is a request for extension of a currently approved information collection.

The National Oceanic & Atmospheric Administration's Office of Atmospheric Research (OAR)/Weather Program Office is conducting this information collection pursuant to section 6(b) of Public Law 92–205. This law requires that all non-federal weather modification activities (*e.g.,* cloud seeding) in the United States (U.S.) and its territories be reported to the Secretary of Commerce through NOAA. This reporting is critical for gauging the scope of these activities, for determining the possibility of duplicative operations or of interference with another project, for providing a database for checking atmospheric changes against the reported activities, and for providing a single source of information on the safety and environmental factors used in weather modification activities in the U.S. Two forms are collected under this OMB Control Number: one prior to and one after the activity. The requirements are detailed in 15 CFR part 908. This data is used for scientific research, historical statistics, international reports and other purposes.

II. Method of Collection

Respondents have a choice of either electronic or paper forms. Methods of submittal include email of electronic forms, mail and facsimile transmission of paper forms.

III. Data

OMB Control Number: 0648–0025.

Form Number(s): NOAA Forms 17–4 and 17–4A.

Type of Review: Regular submission. Extension of a current information collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 50.

Estimated Time per Response: 60 minutes per initial report; 30 minutes per final report.

Estimated Total Annual Burden Hours: 75 hours.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Mandatory.

Legal Authority: Public Law 92–205, Weather Modification Reporting Act of 1972.

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. 2024–00094 Filed 1–5–24; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD609]

Marine Mammals; File No. 25563

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

ACTION: Notice; receipt of application for permit amendment.

SUMMARY: Notice is hereby given that the NMFS Alaska Fisheries Science Center, Marine Mammal Laboratory, 7600 Sand Point Way NE, Seattle, WA 98115 (Responsible Party: John Bengtson, Ph.D.), has applied for an amendment to Scientific Research Permit No. 25563.

DATES: Written comments must be received on or before February 7, 2024.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 25563 from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 25563 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Amy Hapeman or Shasta McClenahan, Ph.D., (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 25563 is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

Permit No. 25563, issued on November 8, 2021 (86 FR 70828, December 13, 2021), authorizes the permit holder to monitor cetacean population trends, abundance, distribution, and health in the North Pacific Ocean, the Bering, Beaufort, and Chukchi Seas, and the Gulf of Maine. Researchers may conduct aerial and vessel surveys to study 20 species of cetaceans including endangered or threatened blue (*Balaenoptera musculus*), bowhead (*Balaena mysticetus*), Cook Inlet beluga (*Delphinapterus leucas*), fin (*Balaenoptera physalus*), gray (*Eschrichtius robustus*), humpback (*Megaptera novaeangliae*), North Pacific

right (*Eubalaena japonica*), sei (*Balaenoptera borealis*), Southern Resident killer (*Orcinus orca*), and sperm (*Physeter macrocephalus*) whales. Surveys are authorized for a suite of methods: observations, counts, photography/videography (underwater, topside, and aerial), photogrammetry, photo-identification, biological sampling (exhaled air, feces, blubber and skin, sloughed skin, environmental DNA, and prey remains), invasive and non-invasive tagging, and active acoustics. Researchers may attach up to two tags on a whale at a time. Biological samples collected on the high seas may be imported to the United States. Up to nine species of pinnipeds may be unintentionally harassed during surveys. See the take tables for specific numbers and life stages authorized for each species.

The permit holder is requesting the permit be amended to include authorization for blue, fin, gray, and humpback whales (adult and juvenile life stages) to receive up to three tags (suction-cup, dart/barb tag, and deep implant) at the same time. Deployment of three tags at a time will allow researchers to better understand whale movements and habitat use and to validate new sensors. The number of takes authorized for each species would not change. The amendment would be valid for the duration of the permit, which is set to expire October 31, 2026.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: January 3, 2024.

Julia M. Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2024–00139 Filed 1–5–24; 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; Alaska Pacific Halibut: Subsistence

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 August 11, 2023, during a 60-day comment period (88 FR 54574). This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration (NOAA), Commerce.

Title: Alaska Pacific Halibut: Subsistence.

OMB Control Number: 0648–0512.

Form Number(s): None.

Type of Request: Regular submission. Extension of a current information collection.

Number of Respondents: 4,783.

Average Hours per Response: Application for SHARC Rural Resident: 10 minutes; Application for SHARC Alaska Native Tribal Member: 10 minutes; Application for SHARC Alaska Native Tribe: 30 minutes; Subsistence Halibut Special Permits Application: 30 minutes; Harvest logs: 30 minutes; Appeal for permit denial: 4 hours; Gear marking: 30 minutes.

Total Annual Burden Hours: 1,673 hours.

Needs and Uses: The National Marine Fisheries Service (NMFS), Alaska Regional Office, is requesting extension of a currently approved information collection for the Alaska Subsistence Halibut Program.

The International Pacific Halibut Commission (IPHC) promulgates regulations governing the North Pacific halibut fishery under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention). The IPHC's regulations are subject to approval by the Secretary of State with the concurrence of the Secretary of Commerce. The Northern Pacific Halibut Act of 1982 (Halibut Act; 16 U.S.C. 773c(a)–(b)), provides the Secretary of Commerce with general responsibility for carrying out the Convention and the Halibut Act, including the authority to adopt regulations necessary to carry out the purposes and objectives of the Convention. The Halibut Act, 16 U.S.C. 773c(c), also provides the North Pacific Fishery Management Council (Council) with authority to develop regulations, including limited access regulations, that are in addition to, and not in conflict with, IPHC regulations.

Regulations the Council recommends may be implemented by NMFS only after approval by the Secretary of Commerce. The Council has exercised this authority in the development of subsistence halibut fishery management measures. NMFS has responsibility for managing the subsistence halibut fishery according to regulations approved by the Secretary. Regulations governing the subsistence halibut fishery are at 50 CFR 300.2, 300.4, and subpart E, and in the annual management measures published in the **Federal Register** pursuant to 50 CFR 300.62.

This information collection is necessary for NMFS to manage the Alaska Subsistence Halibut Program. Subsistence halibut means halibut caught by a rural resident or a member of an Alaska Native tribe for direct personal or family consumption as food, sharing for personal or family consumption as food, or customary trade. The Alaska Subsistence Halibut Program is intended to allow eligible persons to practice the long-term customary and traditional harvest of Pacific halibut for food in a non-commercial manner. This program provides NMFS the opportunity to enhance estimates of subsistence removals for stock assessment purposes.

Before fishing under subsistence halibut regulations, a Subsistence Halibut Registration Certificate (SHARC) must be obtained. This information collection contains the forms used by participants in the subsistence halibut fishery to apply for SHARCs, apply for special use permits, and submit harvest information for special use permits. This information collection contains two collections for which no forms are used: the appeals process for denied permits and marking subsistence setline fishing gear.

Information collected by the permit applications includes applicant information and depending on the

permit type may include information on the educational program or a description of the cultural or ceremonial occasion the permit will be used for. NMFS uses this information to determine the eligibility of applicants to receive or renew permits.

The permit coordinators submit the harvest logs for Community Harvest Permits, Ceremonial Permits, and Educational Permits. Harvest logs collect identification information and harvest information for the subsistence fishermen fishing under that permit.

An appeals process is provided for an applicant who receives an adverse initial administrative determination related to their permit application.

Subsistence setline gear buoys must be marked with identification information that consists of the participant's name and address and an ''S'' to indicate subsistence halibut gear. This information is used by NMFS to link fishing gear to the vessel owner or operator and facilitate enforcement of regulations.

The time and cost burden to mark buoys has been increased based on recent comment received for other fisheries off Alaska (OMB Control Number 0648–0353, Alaska Region Gear Identification Requirements). The time estimate to mark a buoy has been increased from 15 minutes to 30 minutes and the cost has been increased from $15 to $100 per respondent.

Minor editorial changes to the forms were made to increase clarity and consistency with other NMFS Alaska Regional Office forms.

Affected Public: Not-for-profit institutions; Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits, Mandatory.

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 0648–0512.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024–00095 Filed 1–5–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD630]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Ad Hoc Marine Planning Committee (MPC) will hold an online public meeting.

DATES: The online meeting will be held Tuesday, January 23, 2024, from 10 a.m. to 4 p.m., Pacific standard time or until business for the day has been completed.

ADDRESSES: This meeting will be held online. Specific meeting information, including a proposed agenda and directions on how to attend the meeting and system requirements, will be provided in the meeting announcement on the Pacific Council's website (see *www.pcouncil.org*). You may send an email to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov*) or contact him at (503) 820–2412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Kerry Griffin, Staff Officer, Pacific Council; telephone: (503) 820–2409.

SUPPLEMENTARY INFORMATION: The purpose of this online meeting is for the MPC to consider current offshore wind (OSW) energy issues and to provide information and advice to the Pacific Council for consideration at its March 2024 meeting. Meeting topics may include the Bureau of Ocean Energy Management's Notice of Intent (NOI) to Prepare a Programmatic Environmental Impact Statement for the five California OSW leases. The NOI was issued December 20, 2023, with a 60-day comment period. The MPC may also discuss the status of the Draft Wind Energy Areas off the Oregon Coast. Other OSW or aquaculture topics may be considered, as appropriate.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov;* (503) 820–2412) at least 10 days prior to the meeting date.

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

Dated: January 3, 2024.

Diane M. DeJames-Daly,

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

[FR Doc. 2024–00146 Filed 1–5–24; 8:45 am]

BILLING CODE 3510–22–P

COMMISSION OF FINE ARTS

Notice of Meeting

Per 45 CFR chapter XXI section 2102.3, the next meeting of the U.S. Commission of Fine Arts is scheduled for January 18, 2024, at 9 a.m. and will be held via online videoconference. Items of discussion may include buildings, infrastructure, parks, memorials, and public art.

Draft agendas, the link to register for the online public meeting, and additional information regarding the Commission are available on our website: *www.cfa.gov.* Inquiries regarding the agenda, as well as any public testimony, should be addressed to Thomas Luebke, Secretary, U.S. Commission of Fine Arts, at the above address; by emailing *cfastaff@cfa.gov;* or by calling 202–504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated January 3, 2024 in Washington, DC.

Susan M. Raposa,

Technical Information Specialist.

[FR Doc. 2024–00119 Filed 1–5–24; 8:45 am]

BILLING CODE 6330–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge

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), Oak Ridge. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, February 14, 2024; 6 p.m.–8 p.m. EST.

ADDRESSES: This hybrid meeting will be in-person at the Department of Energy (DOE) Information Center (address below) and virtually via Zoom. To attend virtually or to register for in-person attendance, please send an email to: *orssab@orem.doe.gov* by 5:00 p.m. EST on Wednesday, February 7, 2024.

DOE Information Center, Office of Science and Technical Information, 1 Science.gov Way, Oak Ridge, Tennessee 37831

FOR FURTHER INFORMATION CONTACT: Melyssa P. Noe, Deputy Designated Federal Officer, U.S. Department of Energy, Oak Ridge Office of Environmental Management (OREM), P.O. Box 2001, EM–942, Oak Ridge, TN 37831; Phone (865) 241–3315; or email: *Melyssa.Noe@orem.doe.gov*. Or visit the website at *www.energy.gov/orssab*.

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:

- OREM Presentation
- Discussion
- Public Comment Period
- Board Business

Public Participation: This meeting is open to the public. The EM SSAB, Oak Ridge, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Melyssa P. Noe at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board via email either before or after the meeting. Public comments received by no later than 5 p.m. EST on Wednesday, February 7, 2024, will be read aloud during the meeting. Comments will be accepted after the meeting, by no later than 5 p.m. EST on Tuesday, February 20, 2024. Please submit comments to *orssab@orem.doe.gov*. Please put ''Public Comment'' in the subject line. Individuals who wish to make oral statements should contact Melyssa P. Noe at the email address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to submit written public comments should email them as directed above. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by emailing or calling Melyssa P. Noe at the email address and telephone number listed above. Minutes will also be available at the following website: *https://www.energy.gov/orem/listings/oak-ridge-site-specific-advisory-board-meetings*.

Signing Authority: This document of the Department of Energy was signed on January 3, 2024, by David Borak, Deputy Committee Management Officer, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on January 3, 2024.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2024–00122 Filed 1–5–24; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Availability of Guidance on Implementing the Federal Power Act To Designate National Interest Electric Transmission Corridors

AGENCY: Grid Deployment Office, Department of Energy.

ACTION: Notice of availability.

SUMMARY: The U.S. Department of Energy (DOE) gives notice of availability of the final Guidance setting forth the nonbinding process that DOE plans to generally follow to designate National Interest Electric Transmission Corridors (NIETC) pursuant to the Federal Power Act. The Federal Power Act requires DOE to issue a report not less frequently than once every three years, which may designate as a NIETC any geographic area that is experiencing or is expected to experience electric energy transmission capacity constraints or congestion that adversely affects consumers. NIETC designation focuses public and policymaker attention on the areas of greatest transmission need and unlocks valuable Federal financing and permitting tools to advance transmission development.

DATES: Interested parties may submit information and recommendations based on the list of information requested for Phase 1 in the Guidance by 5:00 p.m. ET on February 2, 2024.

FOR FURTHER INFORMATION CONTACT: Gretchen Kershaw, U.S. Department of Energy, Grid Deployment Office, at (202) 586–2006; or *NIETC@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: DOE's Grid Deployment Office (GDO) is announcing the availability of the *Guidance on Implementing Section 216(a) of the Federal Power Act to Designate National Interest Electric Transmission Corridors* (NIETC Guidance). Section 216(a)(2) of the Federal Power Act (FPA), as amended by section 40105 of the Infrastructure Investment and Jobs Act (IIJA), requires DOE to issue a report not less frequently than once every three years, which may designate as a NIETC any geographic area that is experiencing or is expected to experience electric energy transmission capacity constraints or congestion that adversely affects consumers. DOE must base any NIETC designation on the findings of DOE's triennial nationwide study required by FPA section 216(a)(1), which DOE refers to as the National Transmission Needs Study (Needs Study), or other information relating to electric energy transmission capacity constraints or congestion. In addition, the FPA requires DOE to consider alternatives

and recommendations from interested parties (including an opportunity for comment from affected States and Indian Tribes) and to consult with regional entities when designating a NIETC. FPA section 216(a)(4) allows DOE to also consider several additional factors in designating a NIETC.

The NIETC Guidance describes DOE's intended implementation of this statutory authority and initiates the process for designating one or more NIETCs following issuance of the Needs Study released in October 2023. The NIETC Guidance expands on DOE's May 15, 2023, Notice of Intent and Request for Information, which set forth key elements of a process through which interested parties could propose NIETC designation and requested comment on the process generally and in response to other specific questions (88 FR 30956). The NIETC Guidance includes revisions made in response to comments and input DOE received.

The NIETC Guidance sets forth a four-phase process, which begins with DOE's evaluation of the results of the most recent final Needs Study to begin identifying potential geographic areas for NIETC designation and concurrent opening of a 45-day Phase 1 information submission window. During this window, interested parties may submit information and recommendations on the narrow geographic boundaries of potential NIETCs, the present or expected transmission capacity constraints or congestion within those geographic boundaries, and the relevant discretionary factors in FPA section 216(a)(4). Phase 2 of the NIETC designation process begins with DOE's public issuance of a preliminary list of potential NIETC designations. This opens a 45-day comment period and Phase 2 information submission window for submission of additional information on geographic boundaries and permitting. DOE plans to prioritize which potential NIETCs move to Phase 3 based on the available information on geographic boundaries and permitting and preliminary review of comments. During Phase 3, DOE continues to independently assess the basis for NIETC designation, initiates any needed environmental reviews, and conducts robust public engagement, culminating in the release of one or more draft designation reports and draft environmental documents, as needed, for public comment. Phase 4 is the conclusion of the NIETC designation process, with issuance of one or more final designation reports and final environmental documents, as needed.

NIETC designation focuses public and policymaker attention on the areas of greatest transmission need and unlocks valuable federal financing and permitting tools to advance transmission development. These include DOE authorities under the IIJA, the Inflation Reduction Act, and the Energy Policy Act of 2005, as well as the Federal Energy Regulatory Commission's permitting authority under FPA section 216(b). Members of the public can visit GDO's website to access the NIETC Guidance at: *https://www.energy.gov/sites/default/files/2023-12/2023-12-15%20GDO%20NIETC%20Final%20Guidance%20Document.pdf.*

Signing Authority

This document of the Department of Energy was signed on January 2, 2024, by Maria D. Robinson, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. The administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on January 3, 2024.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2024–00102 Filed 1–5–24; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2806–008.
Applicants: TransAlta Energy Marketing (U.S.) Inc.
Description: Market: Triennial Market Power Update Analysis—Southeast Region to be effective 2/28/2024.
Filed Date: 12/29/23.
Accession Number: 20231229–5333.
Comment Date: 5 p.m. ET 2/27/24.

Docket Numbers: ER10–2818–008.
Applicants: TransAlta Energy Marketing Corporation.
Description: Market: TransAlta Energy Marketing Corp. submits tariff filing per 35.37: Triennial Market Power Update Analysis—Southeast Region to be effective 2/28/2024.
Filed Date: 12/29/23.
Accession Number: 20231229–5325.
Comment Date: 5 p.m. ET 2/27/24.

Docket Numbers: ER23–2003–003.
Applicants: Invenergy Nelson Expansion LLC.
Description: Tariff Amendment: Deficiency Letter Response to be effective 7/1/2023.
Filed Date: 1/2/24.
Accession Number: 20240102–5356.
Comment Date: 5 p.m. ET 1/23/24.

Docket Numbers: ER23–2721–000.
Applicants: Idaho Power Company.
Description: Idaho Power Company submits Average System Cost Rate Filing for Sales of Electric Power to the Bonneville Power Administration, FY 2024–2025.
Filed Date: 8/28/23.
Accession Number: 20230828–5434.
Comment Date: 5 p.m. ET 1/23/24.

Docket Numbers: ER24–48–001.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: Tariff Amendment: Alabama Power Company submits tariff filing per 35.17(b): Griffin Road (GASNF Solar) LGIA Deficiency Response to be effective 10/2/2023.
Filed Date: 1/2/24.
Accession Number: 20240102–5367.
Comment Date: 5 p.m. ET 1/23/24.

Docket Numbers: ER24–49–001.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: Tariff Amendment: Alabama Power Company submits tariff filing per 35.17(b): Baker Creek Solar LGIA Deficiency Response to be effective 9/28/2023.
Filed Date: 1/2/24.
Accession Number: 20240102–5322.
Comment Date: 5 p.m. ET 1/23/24.

Docket Numbers: ER24–792–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment of WMPA, Service Agreement No. 6731; Queue No. AE2–248 to be effective 2/28/2024.
Filed Date: 12/29/23.
Accession Number: 20231229–5348.
Comment Date: 5 p.m. ET 1/19/24.

Docket Numbers: ER24–793–000.
Applicants: Entergy Texas, Inc.
Description: § 205(d) Rate Filing: ETI–ETEC First Revised Coordination Services Agreement to be effective 2/27/2024.
Filed Date: 12/29/23.
Accession Number: 20231229–5358.

Comment Date: 5 p.m. ET 1/19/24.

Docket Numbers: ER24–794–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to 2 Service Agreements re: FirstEnergy Reorganization to be effective 12/31/9998.

Filed Date: 12/29/23.

Accession Number: 20231229–5373.

Comment Date: 5 p.m. ET 1/19/24.

Docket Numbers: ER24–795–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to 2 Service Agreements re: FirstEnergy Reorganization to be effective 12/31/9998.

Filed Date: 12/29/23.

Accession Number: 20231229–5382.

Comment Date: 5 p.m. ET 1/19/24.

Docket Numbers: ER24–796–000.

Applicants: Entergy Texas, Inc.

Description: § 205(d) Rate Filing: ETI–ETEC Second Revised LBA Agreement to be effective 2/27/2024.

Filed Date: 1/2/24.

Accession Number: 20240102–5000.

Comment Date: 5 p.m. ET 1/23/24.

Docket Numbers: ER24–797–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original CRA, Service Agreement No. 7158, Non-Queue No. NQ213 to be effective 12/1/2023.

Filed Date: 1/2/24.

Accession Number: 20240102–5128.

Comment Date: 5 p.m. ET 1/23/24.

Docket Numbers: ER24–798–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 1628R25 Western Farmers Electric Cooperative NITSA NOAs to be effective 12/1/2023.

Filed Date: 1/2/24.

Accession Number: 20240102–5211.

Comment Date: 5 p.m. ET 1/23/24.

Docket Numbers: ER24–799–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 1166R42 Oklahoma Municipal Power Authority NITSA and NOA to be effective 12/1/2023.

Filed Date: 1/2/24.

Accession Number: 20240102–5250.

Comment Date: 5 p.m. ET 1/23/24.

Docket Numbers: ER24–800–000.

Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.

Description: § 205(d) Rate Filing: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii: Horus Alabama 1 (Alawest 1 Solar) LGIA Filing to be effective 12/15/2023.

Filed Date: 1/2/24.

Accession Number: 20240102–5307.

Comment Date: 5 p.m. ET 1/23/24.

Docket Numbers: ER24–801–000.

Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.

Description: § 205(d) Rate Filing: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii: Horus Alabama 1 (Alawest 2 Solar) LGIA Filing to be effective 12/15/2023.

Filed Date: 1/2/24.

Accession Number: 20240102–5310.

Comment Date: 5 p.m. ET 1/23/24.

Docket Numbers: ER24–802–000.

Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.

Description: § 205(d) Rate Filing: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii: Yellow Creek Solar LGIA Filing to be effective 12/15/2023.

Filed Date: 1/2/24.

Accession Number: 20240102–5311.

Comment Date: 5 p.m. ET 1/23/24.

Docket Numbers: ER24–803–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 4193 City of Paris NITSA NOA to be effective 12/1/2023.

Filed Date: 1/2/24.

Accession Number: 20240102–5339.

Comment Date: 5 p.m. ET 1/23/24.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: January 2, 2024.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2024–00136 Filed 1–5–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP24–32–000]

Southern Natural Gas Company, L.L.C.; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on December 21, 2023, Southern Natural Gas Company, L.L.C. (Southern), Post Office Box 2563, Birmingham, Alabama 35202–2563, 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 Southern's blanket certificate issued in Docket No. CP82–406–000, for authorization of its Bessemer Calera Expansion Project. Specifically, Southern proposes to: (1) replace 2.48 miles of its 8-inch-diameter Bessemer Calera Loop Line with 12-inch-diameter pipeline; (2) install a 1.63-mile, 4-inch-diameter loop line of its Longview Saginaw Line; (3) modify its Roebuck Meter Station to make it bidirectional; (4) replace and upgrade six meter stations to increase station capacity; and (5) install various appurtenances. All of the above facilities are located in Jefferson, Shelby, and Perry Counties, Alabama. The project will provide up to 33,180 dekatherms per day of incremental firm transportation capacity from Southern's Roebuck Meter Station to existing delivery points along Southern's Bessemer Calera Lateral and Loop Lines as well as the Longview Saginaw Line. The estimated cost for the project is $25,000,000, 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, Southern Natural Gas Company, L.L.C., Two North Nevada Avenue, Colorado Springs, Colorado 80903, by telephone at (719) 667–7515, or by email at *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 p.m. eastern time on March 4, 2024. How to file protests, motions to intervene, and comments is explained below.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[1] any 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 March 4, 2024. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [4] and the regulations under the NGA [5] by the intervention deadline for the project, which is March 4, 2024. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before March 4, 2024. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP24–32–000 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 CP24–32–000.

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, Southern Natural Gas Company, L.L.C., Two North Nevada Avenue, Colorado Springs, Colorado

[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.

[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.

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: January 2, 2024.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2024–00123 Filed 1–5–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP24–286–000.
Applicants: Crossroads Pipeline Company.
Description: Compliance filing: Penalty Revenue Credit Report 2023 to be effective N/A.
Filed Date: 12/29/23.
Accession Number: 20231229–5210.
Comment Date: 5 p.m. ET 1/10/24.

Docket Numbers: RP24–287–000.
Applicants: Northern Border Pipeline Company.
Description: § 4(d) Rate Filing: NBPL Section 4 Rate Case (1 of 2) to be effective 2/1/2024.
Filed Date: 12/29/23.
Accession Number: 20231229–5212.
Comment Date: 5 p.m. ET 1/10/24.

Docket Numbers: RP24–288–000.
Applicants: Millennium Pipeline Company, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate Amdedment SWN–142020 to be effective 1/1/2024.
Filed Date: 12/29/23.
Accession Number: 20231229–5251.
Comment Date: 5 p.m. ET 1/10/24.

Docket Numbers: RP24–289–000.
Applicants: Columbia Gas Transmission, LLC.
Description: § 4(d) Rate Filing: CGV NC/NR Agreement 255792 to be effective 2/1/2024.
Filed Date: 12/29/23.
Accession Number: 20231229–5281.
Comment Date: 5 p.m. ET 1/10/24.

Docket Numbers: RP24–290–000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement—1/1/2024 to be effective 1/1/2024.
Filed Date: 12/29/23.
Accession Number: 20231229–5295.
Comment Date: 5 p.m. ET 1/10/24.

Docket Numbers: RP24–291–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rates—Con Ed 910950 Releases 1–1–24 to be effective 1/1/2024.
Filed Date: 1/2/24.
Accession Number: 20240102–5121.
Comment Date: 5 p.m. ET 1/16/24.

Docket Numbers: RP24–292–000.
Applicants: Rover Pipeline LLC.
Description: § 4(d) Rate Filing: Summary of Negotiated Rate Capacity Release Agreements 1–2–2024 to be effective 1/1/2024.
Filed Date: 1/2/24.
Accession Number: 20240102–5220.
Comment Date: 5 p.m. ET 1/16/24.

Docket Numbers: RP24–293–000.
Applicants: NEXUS Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—Various Releases eff 1–1–2024 to be effective 1/1/2024.
Filed Date: 1/2/24.
Accession Number: 20240102–5230.
Comment Date: 5 p.m. ET 1/16/24.

Docket Numbers: RP24–294–000.
Applicants: Maritimes & Northeast Pipeline, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rates—Northern to Emera Energy 3053 eff 1–1–24 to be effective 1/1/2024.
Filed Date: 1/2/24.
Accession Number: 20240102–5233.
Comment Date: 5 p.m. ET 1/16/24.

Docket Numbers: RP24–295–000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: Negotiated Rate Capacity Release Agreement—01/01/2024 to be effective 1/1/2024.
Filed Date: 1/2/24.
Accession Number: 20240102–5237.
Comment Date: 5 p.m. ET 1/16/24.

Docket Numbers: RP24–296–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—Various Releases eff 1–1–24 to be effective 1/1/2024.
Filed Date: 1/2/24.
Accession Number: 20240102–5244.
Comment Date: 5 p.m. ET 1/16/24.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: PR24–17–001.
Applicants: Southern California Gas Company.
Description: Amendment Filing: Offshore Delivery Service Rate Revision November 2023 to be effective 11/1/2023.
Filed Date: 12/29/23.
Accession Number: 20231229–5254.
Comment Date: 5 p.m. ET 1/19/24.
§ 284.123(g) Protest: 5 p.m. ET 1/19/24.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available

information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov*.

Dated: January 2, 2024.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2024–00121 Filed 1–5–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. IC23–14–000]

Commission Information Collection Activities (FERC–717); Comment Request; Extension

Correction

In Notice Document 2023–28130, appearing on pages 88383 to 88386 in the issue of Wednesday, December 21, 2023, make the following correction:

On page 88386, in the third column, in the **DATES** section, the date ''[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER'' should read ''January 22, 2024''.

[FR Doc. C1–2023–28130 Filed 1–5–24; 8:45 am]

BILLING CODE 0099–10–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP24–8–000]

Natural Gas Pipeline Company of America LLC; Notice of Schedule for the Preparation of an Environmental Assessment for the Texas-Louisiana Expansion Project

On October 18, 2023, Natural Gas Pipeline Company of America LLC (Natural) filed an application in Docket No. CP24–8–000 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 pipeline facilities. The proposed project is known as the Texas-Louisiana Expansion Project (Project) and would add an incremental 300,000 dekatherms per day (Dth/day) of firm gas capacity in Segment 25 of Natural's Louisiana Line 10. When combined with the unsubscribed capacity Natural has reserved for the Project, this would allow Natural to provide up to 467,000 Dth/day of firm transportation service to the Project shippers. Natural states the Project would not result in the termination or reduction in firm service to any of its existing customers.

On October 31, 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	June 6, 2024
90-day Federal Authorization Decision Deadline[2]	September 4, 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

The Project would consist of the following facilities and activities:

Modifications and Installations at Compressor Station 302 (CS 302) in Montgomery County, Texas

- Uprate the horsepower (hp) of existing compressor controls to increase the horsepower of existing compressor Units 7 and 8 by 1,600 hp each, for a total of 3,200 hp;
- Re-wheel existing compressor Units 7, 8 and 9; and
- Install one new electric motor driven (EMD) compressor unit with a rating of 18,340 hp.

Modification at Compressor Station 343 (CS 343) in Liberty County, Texas

- Re-wheel existing EMD compressor Units 9 and 10.

In addition, Natural has identified in its application certain appurtenant facilities that it intends to construct/install under section 2.55(a) of the Commission's regulations.

Background

On November 30, 2023, the Commission issued a *Notice of Scoping Period Requesting Comments on Environmental Issues for the Proposed Texas-Louisiana 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. In response to the Notice of Scoping, the Commission received one comment from the U.S. Environmental Protection Agency. The primary issues raised by the commenter regarded air quality, water quality, Natural's National Pollutant Discharge Elimination System, and environmental justice. All substantive comments will be addressed in the EA.

No agencies requested to be cooperating agencies in the preparation of the EA.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This service provides automatic notification of filings made to subscribed dockets, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

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*.

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC website (*www.ferc.gov*). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' excluding the last three digits (*i.e.,* CP24–8), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached

[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.

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: January 2, 2024.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2024–00135 Filed 1–5–24; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–11411–01–ORD]

Human Studies Review Board (HSRB) Meetings for 2024

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: The Environmental Protection Agency (EPA), Office of Research and Development (ORD), gives notice of the upcoming 2024 public meetings of the Human Studies Review Board (HSRB). The HSRB provides advice, information, and recommendations on issues related to scientific and ethical aspects of third-party human subjects' research that are submitted to the Office of Pesticide Programs (OPP), in the Office of Chemical Safety and Pollution Prevention (OCSPP), to be used for regulatory purposes. EPA is announcing this meeting with less than 15 calendar days public notice.

DATES: Four three-day virtual public meetings will be held on:

1. January 9–11, 2024; and
2. April 10–12, 2024; and
3. July 9–11, 2024; and
4. October 9–11, 2024.

Meetings will be held each day from 1 p.m. to 5 p.m. eastern time. For each meeting, separate subsequent follow-up one-day meetings are planned for the HSRB to finalize reports from the primary three-day meetings listed above. These meetings will be held from 1 p.m. to 5 p.m. eastern time on the following dates: February 14, 2024; May 15, 2024; August 21, 2024; and November 6, 2024.

ADDRESSES: These meetings are open to the public and will be conducted entirely virtually and by telephone. For detailed access information and meeting materials please visit the HSRB website: *https://www.epa.gov/osa/human-studies-review-board.*

FOR FURTHER INFORMATION CONTACT: Any member of the public who wishes to receive further information should contact the HSRB Designated Federal Official (DFO), Tom Tracy, via phone/voicemail at: 919–541–4334; or via email at: *tracy.tom@epa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The HSRB is a Federal advisory committee operating in accordance with the Federal Advisory Committee Act 5 U.S.C. app. 2 section 9. The HSRB provides advice, information, and recommendations on issues related to scientific and ethical aspects of third-party human subjects research that are submitted to the Office of Pesticide Programs (OPP), in the Office of Chemical Safety and Pollution Prevention (OCSPP), to be used for regulatory purposes.

Meeting access: These meetings will be open to the public. The full agenda with access information and meeting materials will be available prior to the start of each meeting at the HSRB website: *https://www.epa.gov/osa/human-studies-review-board.* For questions on document availability, or if you do not have access to the internet, consult with the DFO, Tom Tracy listed under **FOR FURTHER INFORMATION CONTACT**.

Special accommodations. For information on access or services for individuals with disabilities, or to request accommodation of a disability, please contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** at least 10 days prior to each meeting to give EPA as much time as possible to process your request.

Public Participation

The HSRB encourages the public's input. You may participate in these meetings by following the instructions in this section.

1. *Oral comments.* To pre-register to make oral comments, please contact the DFO, Tom Tracy, listed under **FOR FURTHER INFORMATION CONTACT**. Requests to present oral comments during the meetings will be accepted up to noon eastern time, seven calendar days prior to each meeting date. To the extent that time permits, interested persons who have not pre-registered may be permitted by the HSRB Chair to present oral comments during the meetings at the designated time on the agenda. Oral comments before the HSRB are generally limited to five minutes per individual or organization. If additional time is available, further public comments may be possible.

2. *Written comments.* For the Board to have the best opportunity to review and consider your comments as it deliberates, you should submit your comments prior to the meetings via email by noon eastern time, seven calendar days prior to each meeting date. If you submit comments after these dates, those comments will be provided to the HSRB members, but you should recognize that the HSRB members may not have adequate time to consider your comments prior to their discussion. You should submit your comments to the DFO, Tom Tracy, listed under **FOR FURTHER INFORMATION CONTACT**. There is no limit on the length of written comments for consideration by the HSRB.

Topics for discussion. The agenda and meeting materials will be available seven calendar days in advance of each meeting at *https://www.epa.gov/osa/human-studies-review-board.*

Meeting minutes and final reports. Minutes of these meetings, summarizing the topics discussed and recommendations made by the HSRB, will be released within 90 calendar days of each meeting. These minutes will be available at *https://www.epa.gov/osa/human-studies-review-board.* In addition, information regarding the HSRB's Final Reports, will be found at *https://www.epa.gov/osa/human-studies-review-board* or can be requested from Tom Tracy listed under **FOR FURTHER INFORMATION CONTACT**.

Mary Ross,

Director, Office of Science Advisor, Policy and Engagement.

[FR Doc. 2024–00206 Filed 1–5–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10152–03–R10]

Reissuance of NPDES General Permit for Federal Aquaculture Facilities and Aquaculture Facilities Located in Indian Country in Washington (WAG130000)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Reissuance of NPDES General Permit.

SUMMARY: The Environmental Protection Agency, Region 10, is reissuing the National Pollutant Discharge Elimination System (NPDES) General Permit for Federal Aquaculture Facilities and Aquaculture Facilities Located in Indian Country in Washington (WAG130000).

DATES: The reissuance date of the general permit is January 8, 2024. The

general permit will be effective March 1, 2024.

ADDRESSES: Copies of the general permit, 2022 fact sheet, 2023 fact sheet addendum, and response to comments document are available online: *https://www.epa.gov/npdes-permits/npdes-general-permit-federal-aquaculture-facilities-and-aquaculture-facilities-located.*

FOR FURTHER INFORMATION CONTACT: Requests may be made to Audrey Washington at (206) 553–0523. Requests may also be electronically mailed to: *washington.audrey@epa.gov.*

SUPPLEMENTARY INFORMATION:

On September 7, 2022, EPA Region 10 proposed to reissue the general permit (87 FR 54688). In response to requests from the regulated community, EPA Region 10 extended the end of the public comment period from November 7 to December 22, 2022 (87 FR 66178). On July 18, 2023, EPA Region 10 initiated a second public comment period focused exclusively on four changes made to the General Permit (88 FR 45901). Eligible facilities include Concentrated Aquatic Animal Production (CAAP) facilities, non-CAAP facilities, aquaculture research facilities, and dam fish passage facilities. Currently, there are 32 facilities covered under the existing administratively continued general permit. Existing aquaculture facilities may request authorization to discharge under the general permit by submitting a Notice of Intent (NOI) no more than ninety (90) days following the effective date of the general permit. New facilities that begin operations after the effective date of the general permit must submit a NOI at least 180 days prior to initiation of operations. Upon receipt, EPA will review the NOI to ensure that all permit requirements are met. If determined appropriate by EPA, a discharger will be granted coverage under the general permit upon the date that EPA provides written notification.

Please see the general permit and fact sheet.

Other Legal Requirements

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

In accordance with National Environmental Policy Act (NEPA), an Environmental Assessment (EA) and associated Finding of No Significant Impact (FONSI) for a proposed facility at Cassimer Bar was available for review and comment along with this general permit.

Compliance with Endangered Species Act, Essential Fish Habitat, Paperwork Reduction Act, and other requirements are discussed in the 2022 fact sheet to the general permit.

Appeal of Permit: Any interested person may appeal the final permit action on or before May 7, 2024 (*i.e.,* 120 days from the issuance date of this permit) in the Federal Court of Appeals in accordance with section 509(b)(1) of the CWA, 33 U.S.C. 1369(b)(1).

Caleb Shaffer,

Acting Director, Water Division, Region 10.

[FR Doc. 2024–00096 Filed 1–5–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OEJECR–2023–0531; FRL–11583–01–OEJECR]

Agency Information Collection Activities; Proposed Information Collection Request; Comment Request; Environmental Justice Thriving Communities Grantmaking (TCGM) Program: Post-Award Reporting and Public Outreach Information Collections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), Environmental Justice Thriving Communities Grantmaking (TCGM) (TCGM) Program: Post-Award Reporting and Public Outreach Information Collections (EPA ICR Number 2795.01, OMB Control Number 2035–NEW) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a request for approval of a new collection. This notice allows for 60 days for public comments.

DATES: Comments must be submitted on or before March 8, 2024.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OEJECR–2023–0531, to EPA online using *www.regulations.gov* (our preferred method), by email to *Docket_OMS@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Aarti Iyer, Office of the Chief Financial Officer, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; email address: *iyer.aarti@epa.gov;* phone: 202–564–0214.

SUPPLEMENTARY INFORMATION: This is a request for approval of a new collection. 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.

This notice allows 60 days for public comments. Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate forms of information technology. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: To meet the goals and objectives that demonstrate the U.S. Environmental Protection Agency

(EPA's) and the Administration's commitment to achieving environmental justice and embedding environmental justice into Agency programs, EPA released the Thriving Communities Grantmaking Program (TCGM) funding opportunity. The Thriving Communities Grantmaking program is a reimagining of the long-standing Environmental Justice (EJ) Small Grants Program specifically designed to address the needs of underserved communities and marginalized groups through the provision of direct funding. Historically, the Agency has managed the EJ Small Grants directly, moving forward EPA plans to award 11+ cooperative agreement(s) to pass-through entities (referred to as Grantmakers) in collaboration with EPA to design and build their own processes to receive and evaluate competitive community project applications. This competitive subawards program called EJ Thriving Communities Subgrants will fund the initial development of community led environmental justice projects. The pass-through model removes the requirement of applying through the federal grants process and decreases the amount of time it takes to award federal funds. With this Information Collection Request (ICR), EPA seeks authorization to collect information to track progress made by the 11+ Grantmakers and their partnerships. Collection of this information enables EPA to assess and manage the TCGM Program, which ensures responsible stewardship of public funds; rigorous evidence-based learning and improvement; and transparent accountability to the American public. This ICR also requests authorization for the Grantmakers to collect input and insights from communities who seek to obtain subawards via the Thriving Communities Subgrant program, as well as stakeholders who have valuable experience and expertise in community engagement and empowerment. These information collections will enable the Grantmakers and their partners to document local priorities, needs, and norms to ensure that they develop useful and relevant outreach efforts and subgrant opportunities regionally and nationwide. Feedback about the accessibility and effectiveness of the subgrant opportunities will enable the Grantmakers to conduct self-assessments of their work and identify best practices and areas for improvement. Furthermore, each Grantmaker will offer specific application standards for a competitive community application for subaward funding. Lastly, this ICR requests authorization for the Grantmakers to collect information from subrecipients, in order to track progress made in their funded projects.

Form Numbers: None.

Respondents/affected entities: To be determined.

Respondent's obligation to respond: Mandatory for grant recipients as per reporting requirements included in EPA regulations 2 CFR parts 200 and 1500, and voluntary for public outreach information collections via surveys and focus groups.

Estimated number of respondents: To be determined. This data will be available for the next public review period.

Frequency of response: To be determined. This data will be available for the next public review period.

Total estimated burden: To be determined. This data will be available for the next public review period.

Total estimated cost: To be determined. This data will be available for the next public review period.

Changes in the Estimates: This is a new collection; therefore there is no change in burden.

Jacob Burney,

Director, Grants Management Division, Office of Community Support, Office of Environmental Justice and External Civil Rights.

[FR Doc. 2024–00106 Filed 1–5–24; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

TIME AND DATE: Thursday, January 11, 2024, at 10:00 a.m.

PLACE: Hybrid Meeting: 1050 First Street, NE Washington, DC (12th Floor) 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:

Opening Remarks
Draft Advisory Opinion 2023–09: Senator Catherine Cortez Masto
Draft Advisory Opinion 2023–10: Sony Pictures Television, Inc.
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. 2024–00252 Filed 1–4–24; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS24–01]

Renewal and Revision of a Current Information Collection Request; Standardized Instructions and Format To Be Used for Interim and Final Progress Reporting

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council (ASC).

ACTION: Request for public comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the ASC invites public comments on our intention to request the Office of Management and Budget (OMB) approval to renew an information collection request entitled ''ASC Progress Report Standardized Instructions and Format for Interim and Final Progress Reporting.'' Under the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid control number issued by OMB. The requirement for grantees to report on performance is OMB's grants policy.

DATES: Comments must be received on or before March 8, 2024 to be assured of consideration.

ADDRESSES: To view the ASC–PR format, see *https://www.asc.gov/sites/default/files/documents/OtherCorrespondence/Progress%20Report%20Form.pdf.*

Commenters are encouraged to submit comments by the Federal eRulemaking Portal or email, if possible. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov*, including instructions for submitting public comments.
- *E-Mail: webmaster@asc.gov.* Please include the Docket Number AS24–01 in the subject line.
- *Fax:* (202) 289–4101. Please include the Docket Number AS24–01 on the fax cover sheet.
- *Mail or Hand Delivery/Courier:* Address to Appraisal Subcommittee, Attn: Lori Schuster, Management and Program Analyst, 1325 G Street NW, Suite 500, Washington, DC 20005.

In general, the ASC will enter all comments received on the Federal eRulemaking (*Regulations.gov*) website without change, including any business or personal information that you provide, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

The ASC will summarize and/or include your comments in the request for OMB's clearance of this information collection.

You may review comments and other related materials that pertain to this information collection request by any of the following methods:

- *Viewing Comments Electronically:* Go to *https://www.regulations.gov.* Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov*, including instructions for viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.
- *Viewing Comments Personally:* You may personally inspect comments at the ASC office, 1325 G Street NW, Suite 500, Washington, DC 20005. To make an appointment, please contact Lori Schuster at (202) 595–7578.

FOR FURTHER INFORMATION CONTACT: Regeane Frederique, Grants Director, at (202) 792–1168 or *Regeane@asc.gov,* Appraisal Subcommittee, 1325 G Street NW, Suite 500, Washington, DC 20005.

SUPPLEMENTARY INFORMATION: The ASC is responsible for monitoring its grantees on the use of Federal funds. The ASC developed this progress report for both interim and final reports for grants issued under the ASC authority. The progress report is submitted to the ASC semi-annually as an attachment to the Standard Form 425, *Federal Financial Report.*

OMB Number: 3139–0010.

Current Action: Two semiannual reports will be submitted rather than one semiannual report and one annual report. The first semiannual report will be due April 30 that covers the period of October 1–March 31. The second semiannual report will be due on October 30 that covers the period of April 1–September 30. A final report would need to be submitted 120 calendar days after the end of the period of performance.

Type of Review: Extension of a currently approved collection.

Affected Public: ASC grantees.

Estimated Number of Respondents: 55.

Estimated Burden per Response: 1 hour.

Frequency of Response: Twice per year (semi-annual).

Estimated Total Annual Burden: 110 hours.

* * * * *

By the Appraisal Subcommittee.

James R. Park,

Executive Director.

[FR Doc. 2024–00137 Filed 1–5–24; 8:45 am]

BILLING CODE 6700–01–P

FEDERAL LABOR RELATIONS AUTHORITY

Privacy Act of 1974; System of Records

AGENCY: Federal Labor Relations Authority.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Federal Labor Relations Authority (FLRA) is issuing public notice of an intent to introduce a new system of records entitled, ''Privacy Act Requests and Appeals.'' This notice publishes details of the new system as set forth below.

DATES: This notice action shall be applicable immediately, which will become effective February 7, 2024.

Comments will be accepted on or before: February 7, 2024.

ADDRESSES: You may send comments, which must include the caption ''SORN Notice (Privacy Act),'' by one of the following methods:

Email: SolMail@flra.gov. Include ''SORN Notice (Privacy Act)'' in the subject line of the message.

Mail: Thomas Tso, Senior Agency Official for Privacy, Federal Labor Relations Authority, 1400 K Street NW, Washington, DC 20424–0001.

Instructions: Do not mail written comments if they have been submitted via email. Interested persons who mail written comments must submit an original and 4 copies of each written comment, with any enclosures, on 8½ x 11 inch paper. Do not deliver comments by hand.

FOR FURTHER INFORMATION CONTACT: If you have any questions, please contact Thomas Tso, Solicitor, Senior Agency Official for Privacy, at (771) 444–5779.

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974 requires that each agency publish notice of all the systems of records that it maintains. This document proposes the introduction of a new system of records. The ''Freedom of Information Act Request and Appeal Files'' is the system that the FLRA uses to provide the public with a single location to submit and track Freedom of Information Act (FOIA) and related requests and appeals filed with the FLRA. The FLRA had used this single system to track Privacy Act requests, which are often combined with FOIA requests, see 82 FR 49813 (October 27, 2017). Other agencies have also treated Privacy Act and FOIA requests as a singular system of records. *E.g.,* Department of Treasury, *Freedom of Information Act/Privacy Act Request Records,* 81 FR 78266 (Nov. 7, 2016).

The FLRA now proposes a new system of records, titled ''Privacy Act Requests and Appeals,'' to separate Privacy Act request records as an independent system of records. Pursuant to the Creating Advanced Streamlined Electronic Services for Constituents Act of 2019 (''CASES Act''), Public Law 116–50, 133 Stat. 1073 (2019), the Office of Management and Budget's M–21–04, ''Modernizing Access to and Consent for Disclosure of Records Subject to the Privacy Act,'' asks agencies to ''provide a digital service option to ensure that individuals have the ability to digitally request access to or consent to disclosure of their records'' covered by the Privacy Act. M–21–04 also asks agencies to ''review SORNs governing systems of records that include Privacy Act requests for access to and consent to disclosure of records, and, if necessary, modify those SORNs, as well.'' The FLRA determined that a separate system

of records should be used to track the documents generated by requests under the Privacy Act, which may include different information or use different forms than requests under FOIA.

SYSTEM NAME AND NUMBER:

Privacy Act Request and Appeal Files, FLRA/Internal–18.

SECURITY CLASSIFICATION:

Not applicable.

SYSTEM LOCATION:

FLRA Headquarters, Office of the Solicitor.

SYSTEM MANAGER(S):

Senior Agency Official for Privacy, Office of the Solicitor, Federal Labor Relations Authority, 1400 K St. NW, Washington, DC 20424.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Privacy Act, 5 U.S.C. 552a.

PURPOSE(S) OF THE SYSTEM:

To provide the public with portals to submit and track Privacy Act requests and appeals filed with the FLRA and to manage internal Privacy Act administration activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons requesting information or filing appeals under the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

A copy of each Privacy Act request received by the FLRA and a copy of all correspondence related to the request, including the requesters' names, mailing addresses, email addresses, phone numbers, Social Security Numbers, birth certificates, evidence of guardianship or parentage, dates of birth, any aliases used by the requesters, alien numbers assigned to travelers crossing national borders, requesters' parents' names, user names and passwords for registered users, Privacy Act tracking numbers, dates requests are submitted and received, related appeals, and agency responses. Records also include communications with requesters, internal Privacy Act administrative documents (*e.g.,* billing invoices) and responsive records.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by FLRA employees and Privacy Act requesters.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to the disclosure generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information in these records may be used pursuant to 5 U.S.C. 552a(b)(3):

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, when the FLRA becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

c. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body, when the FLRA determines that the records are arguably relevant to the proceeding, or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

d. To a Federal, State, local, or foreign agency or entity for the purpose of consulting with that agency or entity to enable the FLRA to make a determination as to the propriety of access to or correction of information, or for the purpose of verifying the identity of an individual or the accuracy of information submitted by an individual who has requested access to or amendment of information.

e. To a Federal agency or entity that furnished the record or information for the purpose of permitting that agency or entity to make a decision as to access to or correction of the record or information, or to a Federal agency or entity for purposes of providing guidance or advice regarding the handling of particular requests.

f. To a submitter or subject of a record or information in order to obtain assistance to the FLRA in making a determination as to access or amendment.

g. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

h. To disclose information to the National Archives and Records Administration, the Office of Government Information Services (OGIS), only when there is overlap between Privacy Act and FOIA requests, to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(h), to review administrative agency policies, procedures and compliance with FOIA, and to facilitate OGIS's offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

i. To appropriate agencies, entities, and persons when (1) the FLRA suspects or has confirmed that there has been a breach of the system of records; (2) the FLRA has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FLRA (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FLRA's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

j. To another Federal agency or Federal entity, when the FLRA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

k. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.

l. To such recipients and under such circumstances and procedures as are mandated by Federal statute, regulation, or treaty.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

All Privacy Act records are maintained in a secure, password-protected FedRAMP-certified third-party cloud environment, which utilizes security hardware and software, including multiple firewalls, active intruder detection, and role-based accessed controls. Any paper records are stored in secure FLRA offices and/or lockable file cabinets. Given the common overlap between FOIA and Privacy Act requests, Privacy Act request records in this system may be maintained within a related FLRA system of records, ''Freedom of Information Act Request and Appeal Files, FLRA/Internal-17.''

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Requests are retrieved from the system by numerous data elements and

key word searches, including name, agency, dates, subject, Privacy Act request tracking number, and other information retrievable with full-text searching capability.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Privacy Act records are maintained for three years or longer, in accordance with item 001 of General Records Schedule 4.2, as approved by the Archivist of the United States. Disposal is by shredding and/or by deletion of the electronic record.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Computer records are maintained in a secure, password-protected computer system. Paper records are maintained in secure offices or lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RECORD ACCESS PROCEDURES:

Individuals wishing access to records about them should contact the System Manager. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Approximate date of the Privacy Act request or appeal.

Individuals requesting access must comply with the FLRA's Privacy Act regulations regarding access to records (5 CFR 2412).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of records about them should contact the System Manager. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Approximate date of the Privacy Act request or appeal.

Individuals requesting amendment must follow the FLRA's Privacy Act regulations regarding amendment of records (5 CFR 2412).

NOTIFICATION PROCEDURES:

Individuals wishing to determine whether this system of records contains information about them should contact the System Manager. Individuals must furnish the following for their records to be located and identified:

a. Full name.

b. Approximate date of the Privacy Act request or appeal.

Individuals making inquiries must comply with the FLRA's Privacy Act regulations regarding the existence of records (5 CFR 2412).

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Approved: January 3, 2024.

Thomas Tso,

Solicitor and Senior Agency Official for Privacy, Federal Labor Relations Authority.

[FR Doc. 2024–00104 Filed 1–5–24; 8:45 am]

BILLING CODE 7627–01–P

GENERAL SERVICES ADMINISTRATION

[Notice–PBS–2024–01; Docket No. 2024–0002; Sequence No. 1]

Notice of Intent To Prepare an Environmental Impact Statement for the Modernization of the Land Port of Entry in Norton, Vermont

AGENCY: Public Buildings Service (PBS), General Services Administration (GSA).

ACTION: Notice of Intent (NOI); Announcement of meeting.

SUMMARY: Pursuant to the requirements of the National Environmental Policy Act of 1969 (NEPA) GSA intends to prepare an Environmental Impact Statement (EIS) to analyze the potential environmental impacts from the proposed modernization of the Land Port of Entry (LPOE) in Norton, Vermont. The proposed project would allow the U.S. Customs and Border Protection (CBP) to more efficiently carry out its agency mission at the international border crossing between Norton, Vermont and Stanhope, Quebec. The project study area is located in an area susceptible to flooding and therefore project alternatives will be reviewed in accordance with Executive Orders 11988, and 13690. GSA also intends to initiate consultation as required by Section 106 of the National Historic Preservation Act.

DATES: *Public Scoping*—Interested parties are encouraged to provide written comments regarding the scope of the EIS. Written comments must be submitted to GSA by March 8, 2024 (see **ADDRESSES** section for where to submit comments).

Meeting Date—A public scoping meeting will be held on January 30, 2024, from 5:30 p.m. to 7:30 p.m., EST, with a presentation to begin at 6 p.m. The meeting will be held at the Norton Town Office (see **ADDRESSES** section for location address). In the event of inclement weather, the meeting will be rescheduled, and a new notice will be posted.

Requests for Accommodations: Persons requiring accommodations shall notify Kelly Morrison at *Kelly.morrison@gsa.gov* by January 17, 2024.

ADDRESSES: *Public Scoping Comments*—The public is encouraged to provide written comments regarding the scope of the EIS at the meeting and throughout the comment period. Submit comments by any of the following methods:

In-person: Submit written comments at the public scoping meeting via comment forms distributed at the meeting. There will be a stenographer present to capture comments voiced at the meeting.

Email: Send an email to *Norton.LPOE@gsa.gov* and reference ''Norton LPOE EIS'' in the subject line.

Mail: U.S. General Services Administration, Attention: U.S General Services Administration, Attention: Adam Hunter, Norton Project Manager, Thomas P. O'Neill, Jr. Federal Building, 10 Causeway Street, 11th Floor, Boston, MA 02222–1077.

Meeting Location—A public scoping meeting will be held at the Norton Town Office, 12 VT–114 East, Norton, VT 05907.

FOR FURTHER INFORMATION CONTACT: Adam Hunter, Norton Project Manager, (347) 255–7483, *adam.hunter@gsa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The project scope consists of the modernization of a LPOE in order to meet the U.S. Customs and Border Protection (CBP) current Program of Requirements to carry out their agency mission at the international border crossing between Norton, Vermont and Stanhope, Quebec. The existing LPOE was constructed in 1933, with a truck facility constructed in 1961. Two additional garages were built in 2003. The main building is listed on the National Register of Historic Places. The current facilities are significantly outdated and do not meet the CBP's current LPOE design standards.

The proposed modernization of the Norton, Vermont LPOE would help improve traffic flow, enhance security, and facilitate trade and travel in the region. The proposed new facility will strengthen supply chains, improve operational capabilities and facility infrastructure, spur economic growth, and bolster the country's security.

Alternatives Under Consideration

GSA intends to prepare an EIS to analyze the potential environmental impacts resulting from the proposed modernization of the Norton, Vermont LPOE. The EIS will consider at a minimum, one ''action'' alternative and one ''no action'' alternative. The action

alternative(s) will consist of modernizing the LPOE to improve public and officer safety, and provide for the long-term, safe and efficient flow of current and projected traffic volumes. The action alternative(s) will be developed and refined based on resource impact considerations, floodplain management, site and design logistics, and information obtained through public scoping and agency consultation.

The EIS will address the potential environmental impacts of the proposed alternatives on environmental resources which may include aesthetics, air quality, geology and soils, hazardous materials, hydrology and water quality, cultural resources, biological resources including wetlands and threatened and endangered species, land use, noise, utilities, and traffic. The EIS will also address the socioeconomic effects of the project as well as impacts on Environmental Justice populations.

Scoping Process

The views and comments of the public are necessary to help determine the scope and content of the environmental analysis. The scoping process will be accomplished through a public scoping meeting, direct mail correspondence to appropriate federal, state, and local agencies, and to private organizations and citizens who have previously expressed or are known to have an interest in the project. Agencies and the public are encouraged to attend the public scoping meeting and provide written comments regarding the scope of the EIS. There will be a project presentation at 6:00 p.m. with a public comment period to follow. After the meeting GSA will post the following items at the project website, *gsa.gov/norton.*

- Meeting handouts
- Presentation slide deck
- Meeting transcript
- Audio/video of the meeting with closed captions

See information provided above for dates, addresses, and contact information.

Patrick Sbardelli,

Director, LPOE Project Management Office; Design and Construction Division, U.S. General Services Administration, PBS New England Region.

[FR Doc. 2024–00138 Filed 1–5–24; 8:45 am]

BILLING CODE 6820–RB–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Release of Unaccompanied Alien Children From ORR Custody (OMB #0970–0552)

AGENCY: Office of Refugee Resettlement; Administration for Children and Families; Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF), U.S. Department of Health and Human Services, is inviting public comments on revisions to an approved information collection. The request consists of several forms that allow the Unaccompanied Children (UC) Program to process release of unaccompanied children from ORR custody and provide services after release.

DATES: *Comments due within 30 days of publication.* Office of Management and Budget (OMB) must make a decision about the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION:

Description: ORR is proposing revisions to four forms (Forms R–1, R–2, R–4, and R–6), the addition of one new form (Form R–9), removal of one form (Form R–3), continued use of the current version of one form (Form R–6), and alternate versions of two forms (R–2 and R–4). See below for a detailed description of the proposed revisions for each instrument.

Verification of Release (Form R–1)

There are two currently approved versions of this form under this information collection—one for UC Portal and one for UC Path. ORR proposes discontinuing the UC Portal version, incorporating the UC Path version into the UC Portal system, and making the below-listed revisions. ORR also updated the burden estimates for this form to account for an increase in the number care provider facilities and in the number of children placed in ORR care. The annual number of respondents increased from 216 to 300 and the annual number of responses per respondent increased from 253 to 428.

Proposed Revisions

- Child's Information
  - Retitle section from *Minor's Information* to *Child's Information*
  - Remove the term ''minor'' from the *Name, Date of Birth,* and *A#* fields.
  - Remove the *Height, Weight,* and *Hair Color* fields. ORR determined that these fields are not a good fit for this form given that height and weight will change quickly as the child grows and hair color is often altered.
  - Add fields for *Primary Language* and *Country of Birth*. These fields will be auto-populated.
- Sponsor Information
  - Rephrase *Name of Sponsor* to *Name*
  - Rephrase *Telephone #* to *Primary Phone #*
  - Remove *Alias (if any)* field
- Acknowledgement of the Sponsor Care Agreement
  - Rephrase *Name of ORR Care Provider* to *ORR Care Provider Name*
  - Rephrase *Date* to *Discharge Date*
  - Add the following statement: *In agreeing to these provisions, the sponsor holds authority to consent to medical and mental health care on behalf of the child.*

Discharge Notification (Form R–2)

There are two currently approved versions of this form under this information collection—one for UC Portal and one for UC Path. ORR proposes discontinuing the UC Path version and revising the UC Portal version.

To support making iterative improvements, ORR proposes two versions of the form. The first version will be rolled out in the current UC Portal system. The second version will be rolled out in a modernized version of UC Portal. ORR expects to begin rolling out features in the new modernized system in 2024. Once the second version is rolled out, ORR will submit a nonsubstantive change request to remove the first version from the information collection.

ORR also updated the burden estimates for this form to reflect the revisions and to account for an increase in the number of care provider facilities and in the number of children placed in

ORR care. For both versions, the annual number of respondents increased from 216 to 300 and the annual number of responses per respondent increased from 290 to 487. For the modernized UC Portal version, the average burden hours per response increased from 0.17 to 0.25.

Proposed Revisions—Current UC Portal Version

- Discharge Notification
  - Remove *Proof of Relationship* field
  - Rephrase Type of Discharge field to *Discharge Type* and update dropdown options to account for all types of discharge from an ORR care provider facility.
- ORR Decision From Latest Release Request
  - Remove the following fields: *DHS Family Shelter, Local Law Enforcement,* and *Specify, if Other is Selected*
  - Move the following fields into a new Transfer of Placement Section: *UC Legal Status* (rephrased from *Legal Status of Minor*), *Address, City, State, Zip Code,* and *Phone*
- Create a new Other Type of Discharge section that contains the following fields: *Discharge into the Custody of* (options = Individual and Program/Facility), *Individual or Program/Facility Name, Address, City, State,* and *Zip Code*

Proposed Revisions—Modernized UC Portal Version

In general, the purpose of the proposed revisions is to make the form more useful for processing the physical discharge of a child from a care provider program. To that end, ORR proposes adding several new fields, many of which are intended to support internal operations only and are not appropriate to share with stakeholders when notifying them of a child's discharge. To ensure that only information necessary to provide notification of a child's discharge is shared with stakeholders, ORR proposes making this form internal to the ORR care provider network and ORR staff. To more accurately capture the purpose of the form and to distinguish it from previous versions, ORR proposes renaming the form ''Program Exit Processing'' and assigning it a new internal control number, ''Form R–10.'' The UC Portal system will generate a separate report (*i.e.,* an auto-populated document requiring no data entry) which will only contain the basic information necessary to notify stakeholders of the child's discharge. ORR will continue to use the title and internal control number of ''Discharge Notification (Form R–2)'' for the report since it will be used for the same purpose as the previous version of the form.

- UC Basic Information
  - Remove *Age* field and add *Portal ID* field (auto-populated system-generated number).
- Discharge Basic Information
  - Retitle section from *Discharge Notification* to *Discharge Basic Information.*
  - Update the dropdown options for the *Discharge Type* field to be inclusive of all types of discharge scenarios and add an *If Other, specify* text box field.
  - Add the following fields from the UC Path version:
    - *Status*
    - *Scheduled Date of Discharge* (rephrase from *Release Scheduled Date/Time*)
    - *Discharge Delay* (also expand dropdown options and add an *If Other, specify* text box field)
    - *UC Parent Name*
    - *Parent/Legal Guardian Separation*
    - *MPP Case*
    - *Next Immigration Hearing Date*
  - Add the following new fields:
    - *UC Parent Discharge Type*
    - *UC Parent A#*
    - *Did the medical coordinator certify that the child is medically fit to travel?*
  - Move the field *Legal Status of Child* (rephrase from *Legal Status of Minor*) under this section and add an *If Other, specify* text box field.
- Discharge Details
  - Retitle section from *ORR Decision from Latest Release Request* to *Discharge Details.*
  - Employ progressive disclosure for this section so that only fields relevant to the selected *Discharge Type* (and where applicable *UC Parent Discharge Type*) are displayed.
  - Rephase field label to *Receiving Program Name* (currently *Program Minor was Transferred to*).
  - Remove the following fields:
    - *DHS Family Shelter*
    - *Local Law Enforcement*
  - Add the following fields from the UC Path version:
    - *Government Agency Name* (rephrase from *Name of Government Agency*)
    - *Government Agency Type* (rephrase from *Government Agency* and update dropdown options to add *ICE ERO* and remove *State/Local Facility*)
    - *Date Granted Voluntary Departure*
    - *Date Travel Document Requested*
    - *Date Travel Document Issued*
    - *Referral to Services in Country of Origin* (update dropdown options to rephrase *KIND (Kids in Need of Defense)* to *KIND CMRRP* and add *Other Services*)
    - *Completed Referral to Services in Country of Origin*
    - *DHS Age Out/Age Redetermination Plan* (rephrase from *DHS Age Out Plan*)
  - Add the following new fields:
    - *Type of Post-18 Discharge Plan*
    - *Discharged into Custody of*
    - *UC Parent Discharged into Custody of*
- Transportation Details
  - Transfer this section and all fields contained within from the UC Path version without further revisions.

ORR Release Notification—ORR Notification to Immigration and Customs Enforcement (ICE) Chief Counsel—Release of Unaccompanied Child to Sponsor and Request To Change Address (Form R–3)

ORR proposes removing this instrument from the information collection. No information is requested specifically for this auto-populated document, instead this a document that is auto-populated with information ORR collects in other OMB-approved forms. The use of information consolidated on this notification document is consistent with the purpose for which ORR originally collects the information in its other forms and with ORR's system of records notice (81 FR 46682). This form simply compiles and presents approved information collections in a different format and is therefore not subject to PRA.

The fields in this form are auto-populated from the following instruments:

- Discharge Notification (Form R–2, approved under this information collection)
- Release Request (Form R–4, approved under this information collection)
- Sponsor Assessment (Form S–5) (approved under OMB# 0970–0553)
- Care provider program user profile (not subject to PRA per OMB's April 7, 2010 memorandum *Social Media, Web-Based Interactive Technologies, and the Paperwork Reduction Act*)

Release Request (Form R–4)

There are two currently approved versions of this form under this information collection—one for UC Portal and one for UC Path. ORR proposes discontinuing the UC Path version and revising the UC Portal version.

To support making iterative improvements, ORR proposes two

versions of the form. The first version will be rolled out in the current UC Portal system. The second version will be rolled out in a modernized version of UC Portal. ORR expects to begin rolling out features in the new modernized system in 2024. Once the second version is rolled out, ORR will submit a nonsubstantive change request to remove the first version from the information collection.

ORR also updated the burden estimates for this form to reflect the revisions and to account for an increase in the number of care provider facilities and in the number of children placed in ORR care. For both versions, the annual number of respondents increased from 216 to 300 for care providers; the annual number of responses per respondent increased from 254 to 430 for care providers and 321 to 756 for case coordinators. For the modernized UC Portal version, the average burden hours per response increased from 0.42 to 0.58 for care providers and 0.33 to 0.50 for case coordinators.

Proposed Revisions—Current UC Portal Version

- Release Request Details
  - Replace the current *Requester Information* section with this section.
  - Auto-populate all fields in this section based on information captured in other sections of the form, information collected in the Sponsor Assessment (Form S–5, approved under OMB# 0970–0553), and system user information.
  - Add the following new fields: *Case Category* and *Relationship.*
  - Replace the fields *Requester Name* and *Requester Title* with the following auto-populated fields: *Case Manager Name, Case Coordinator Name,* and *Local Federal Field Staff Name.*
- Sponsor Information
  - Remove the following fields: *Legal Status, If other Non-Immigrant Visa, Specify, If Other Immigrant Visa, Specify, SSN, A Number, Sponsor Email, Sponsor's Relationship to Minor, Is there proof of relationship?, Provide Details on Relationship Including Official Documentation, Sponsor Household Occupants,* and *Affidavits of Support.*
- OTIP Eligibility
  - This new section requests information related to referrals made to the Office of Trafficking in Persons, where applicable.
  - Add the following new fields: *Is the unaccompanied child a material witness?, Outcome of OTIP Referral, OTIP Referral, Date of OTIP Referral, Date OTIP Eligibility Begins,* and *Date OTIP Eligibility Expires.*
- Program Information
  - Add the following new fields: *URM Program Requirement Eligibility* and *Date the URM Eligibility was Obtained.*
- Case Manager Recommendation
  - Reorganize the section to contain three subsections: Home Study, Release Recommendation, and Release Cancellation.
  - Replace the fields *Case Manager Recommendation, Case Manager Recommendation after Home Study,* and *If Applicable, Cancellation Reason* with three new fields: *Case Manager Home Study Recommendation, Case Manager Release Recommendation,* and *Case Manager Cancellation Reason.*
  - Add the following new fields: *Explain your rationale for recommending or not recommending a Home Study, Describe case factors that contribute positively to your release recommendation, Describe case factors that contribute negatively to your release recommendation, List all documents used as evidence to support your recommendation to deny release (''evidentiary record''),* and *Describe circumstances of release cancellation.*
- Case Coordinator Recommendation
  - Reorganize the section to contain three subsections: Home Study, Release Recommendation, and Release Cancellation.
  - Replace the fields *Recommendation, Recommendation after Home Study,* and *If Applicable, Cancellation Reason* with three new fields: *Case Coordinator Home Study Recommendation, Case Coordinator Release Recommendation,* and *Case Coordinator Cancellation Reason.*
  - Add the following new fields: *Explain your rationale for recommending or not recommending a Home Study, Case Coordinator Pending Information, Other, Describe case factors that contribute positively to your release recommendation, Describe case factors that contribute negatively to your release recommendation, List all documents used as evidence to support your recommendation to deny release (''evidentiary record''),* and *Describe circumstances of release cancellation.*
- ORR Decision
  - Replace the fields *ORR Decision, ORR Decision after Home Study,* and *If Applicable, Cancellation Reason* with three new fields: *ORR Home Study Decision, ORR Release Decision,* and *ORR Cancellation Reason.*
  - Move the fields *Release Approved Date* and *Release Approved by* up from the Program Release Dates section and rephrase as follows: *ORR Decision Date* and *ORR Decisionmaker Name.*
  - Add the following new fields: *ORR Hold Reason, Explain your rationale for recommending or not recommending a Home Study, Please summarize the results of the home study including any recommendations made by the Home Study provider, if there are any concerns, and how they were mitigated, Describe case factors that contribute positively to your release recommendation, Describe case factors that contribute negatively to your release recommendation, List all documents used as evidence to support your recommendation to deny release (''evidentiary record''),* and *Describe circumstances of release cancellation.*

Proposed Revisions—Modernized UC Portal Version

- Case Details—Retitle section from *UC Basic Information* to *Case Details.*
- Release Request Details
  - Replace the current *Requester Information* section with this section.
  - Auto-populate all fields in this section based on information captured in other sections of the form, information collected in the Sponsor Assessment (Form S–5, approved under OMB# 0970–0553), and system user information.
  - Add the following new fields: *Case Category, Relationship, Process* and *Release Status.*
  - Replace the fields *Requester Name* and *Requester Title* with the following auto-populated fields: *Case Manager Name, Case Coordinator Name, Local Federal Field Staff Name,* and *Box Federal Field Staff Name (if Applicable).*
- Sponsor Information
  - Add the following new fields that will auto-populate based on information entered in the Sponsor Assessment (Form S–5, approved under OMB# 0970–0553): *Evidence gathered to support sponsor/child relationship, Birth Certificate Trail, Concurrent and Prior Sponsorships, Sponsor's Previous Address(es), Sponsor's Current Address,* and *Flags Associated with Sponsors.*
  - Add the following new fields that will be completed by the user: *Other* (in response to *What evidence has been gathered to support sponsor/child relationship*), *Does sponsor birth certificate match official sponsor ID?, If no, please note discrepancies between sponsor birth certificate and official sponsor ID, Was birth certificate verified*

by the consulate, If unable to conclusively prove relationship, please explain, and *Concurrent and Prior Sponsorships Evaluation.*

○ Remove the following fields: *Legal Status, If other Non-Immigrant Visa, Specify, If Other Immigrant Visa, Specify, SSN, Provide Details on Relationship Including Official Documentation, Sponsor Household Occupants,* and *Affidavits of Support.*

Family Reunification Packet & Supporting Documents

○ Add this new section which will reference all supporting documentation relevant for release recommendations to minimize the amount of cross-referencing system users typically do to complete this form.

○ Unification Documentation Subsection

▪ Add the following new fields that will auto-populate based on information enter in the Sponsor Assessment (Form S–5, approved under OMB# 0970–0553): *Sponsor, Sponsor Identification, Was the sponsor address validated through SmartyStreets?, Choose to link google maps and google earth screenshots, What documentation was provided as proof of address, Household Member Name, Household Member Identification, ID Expiration Date, Alternate Caregiver Name, Alternate Caregiver Identification,* and *ID Expiration Date.*

▪ Add the following new fields that will be completed by the user: *Date FRP Received by Case Manager, Describe the sponsor's ability to provide housing, food, and education to the child, On what date was the Letter of Designation received, Not Collected (checkbox),* and *On what date was the Legal Orientation Program for Custodians Packet sent to the Sponsor?*

Child-Level Events Subsection

▪ Hyperlink to information collected in the Child-Level Event (Form A–9, approved under OMB# 0970–0547), when applicable. This section is proposed purely to assist users in having all case information in one place. Child-Level Events in and of themselves are not the sole basis of release decisions but can inform whether a Home Study recommendation is made, what level of post-release services (PRS) is recommended for release, or what type of program would be best suited to a child released to program rather than a sponsor.

Legal Representation Subsection

▪ Add the following new fields: *Does the child have an attorney of record?* and *Date Attorney Appointed, Is this a Migrant Protection Protocol case?, Is there a removal order for the unaccompanied child?,* and *Is this a Parental/Legal Guardian separation case?.*

Child Advocate Subsection

▪ Add the following new fields: *Does the child have a Child Advocate appointed?, Date Child Advocate Appointed.*

▪ Add a hyperlink to the Child Advocate Best Interest Determination (which is uploaded into UC Portal) upon completion, is proposed to be added into this form for the user's ease of reference.

OTIP Eligibility Subsection

▪ This subsection requests information related to referrals made to the Office of Trafficking in Persons, where applicable.

▪ Add the following new fields: *Is the unaccompanied child a material witness?, Outcome of OTIP Referral, OTIP Status, Date of OTIP Referral, Date OTIP Eligibility Begins,* and *Date OTIP Eligibility Expires.*

▪ Add a hyperlink to the OTIP Eligibility Letter (if applicable) which is uploaded into UC Portal, upon completion, will be added into this form for the user's ease of reference.

Release to Program (URM, State, Local Social Service Agency, Other) Subsection

▪ Add the following new fields: *URM Program Requirement Eligibility, Date the URM Eligibility was Obtained, Program Accepts Guardianship, Program Agreed to Condition of Release, How/Why Program was identified, Date of Referral to the Program, Date of Acceptance, Program Comment,* and *Program License Type*, *Program Type, Facility Name, Program Address,* and *Other.*

▪ Add a hyperlink to the Discharge Plan (Form R–9), which is a new instrument proposed under this request.

Criminal Investigations

○ Auto-populate information on background check results from the Sponsor Assessment (Form S–5, approved under OMB# 0970–0553).

○ Employ progressive disclosure to limit or expand each subsection based on the facts of the case.

○ Criminal Investigations: Sponsor Subsection

▪ Add the following new fields that will be completed by the user: *Has the sponsor self-disclosed any criminal history? Please Explain., Is there evidence of rehabilitation? Please Explain., FFS requested the following additional information to adjudicate CA/N Results:, FFS adjudicated referred CA/N Check Results, FFS Requested the following information to adjudicate Fingerprints Results:, FFS adjudicated Fingerprints Results,* and *Did the FFS instruct that it is safe to move forward with the sponsor given the Fingerprint and CA/N Results? Please Explain:.*

○ Criminal Investigations: Household Member (HHM) Subsection

▪ Add the following new fields that will be completed by the user: *Has the household member self-disclosed any criminal history? Please Explain., Is there evidence of rehabilitation? Please Explain., FFS requested the following additional information to adjudicate CA/N Results:, FFS adjudicated referred CA/N Check Results, FFS Requested the following information to adjudicate Fingerprints Results:, FFS adjudicated Fingerprints Results,* and *Did the FFS instruct that it is safe to move forward with the sponsor given the HHM's Fingerprint and CA/N Results? Please Explain:.*

○ Criminal Investigations: Alternate Caregiver (ACG) Subsection

▪ Add the following new fields that will be completed by the user: *Has the alternate caregiver self-disclosed any criminal history? Please Explain., Is there evidence of rehabilitation? Please Explain., FFS requested the following additional information to adjudicate CA/N Results:, FFS adjudicated referred CA/N Check Results, FFS Requested the following information to adjudicate Fingerprints Results:, FFS adjudicated Fingerprints Results,* and *Did the FFS instruct that it is safe to move forward with the sponsor given the alternate caregiver's Fingerprint and CA/N Results? Please Explain:*

• Home Study Recommendation Section

○ Move all fields related to home study recommendations into this new section. Currently, the Case Manager Recommendation, Case Coordinator Recommendation, and ORR Decision sections contain fields related to home study recommendations, release recommendations, and cancellation reasons. Moving fields related to home study recommendations here will distinguish the home study decision from the release decision and cancellation reasons. This section will contain subsections for each party involved in the home study recommendation and decision process—Case Manager Recommendation, Case

Coordinator Recommendation, and ORR Decision.

○ Add a new dropdown option, *Do Not Recommend Home Study,* to the case manager and case coordination recommendation fields and the decision field (current dropdown options are *Home Study—TVPRA, Home Study—Discretionary,* and *Home Study—ORR Mandated*).

○ Add a new field, *Explain your rationale for recommending or not recommending a Home Study,* to all three subsections.

○ Add the following new fields that will appear if a home study is approved: *Date Home Study Referral Sent, Date Home Study Referral Accepted,* and *Date Home Study Completed.* These fields will auto-populated based on UC Portal system data.

○ Add a hyperlink to the Home Study Report will appear after it is uploaded into UC Portal, as well as a new field: *Please summarize the results of the home study including any recommendations made by the Home Study provider. If there are any concerns and how they were mitigated.*

• Release Recommendation

○ Bundle the Case Manager Recommendation, Case Coordinator Recommendation, and ORR Decision sections together as subsections under this new section. Fields related to home study recommendations will be moved into the Home Study Recommendation section (as discussed above) and fields related to cancellation reasons will be moved into the Release Cancellation section (as discussed below).

○ Add three checkboxes to assist in routing for this form: *Submitted on Weekend or Holiday?, ICF or Casa Padre?,* and *Certified Medically Fit for Travel* (a field that can only be completed by ORR federal staff).

○ Update the dropdown options for the following fields to reflect that all children released from ORR care will receive PRS beginning January 1, 2024: *Case Manager Release Recommendation, Case Coordinator Release Recommendation,* and *ORR Release Decision.*

○ Add the following fields to direct case routing: *Case Manager Routing, Case Coordinator Routing, ORR Routing (if applicable).*

○ Add the following new fields to each subsection: *Describe case factors that contribute positively to your release recommendation, Describe case factors that contribute negatively to your release recommendation,* and *List all documents used as evidence to support your recommendation to deny release* (will only appear if the recommendation is to deny release).

○ Case Manager Recommendation Subsection

■ Add checkboxes for the types of documents the user reviewed to inform their recommendation as well as an *Other* text box to describe any documents reviewed that are not included in the checklist.

○ Case Coordinator Recommendation Subsection

■ Add a new field, *Case Coordinator Pending Information* as well as an *Other* text box to capture addition information is the user selects *Other.*

○ ORR Decision Subsection

■ Add the following new fields: ORR Decisionmaker Role, *ORR Remand Reason* (along with a corresponding *Other* text field), and *ORR HOLD Reason.*

■ Add a hyperlink to the final Notification of Denial Letter signed by the ORR Director that will appear if *Deny Release* is selected for a Cat 1, Cat 2A, or Cat 2B sponsor.

• Release Cancellation

○ Move fields related to release cancellation into this new section to distinguish cancellations from home study and release recommendations. This section will contain subsections for each party involved in cancellations—Case Manager Recommendation, Case Coordinator Recommendation, and ORR Decision.

○ Add the following new fields to each subsection: *Cancellation Reason* and *Describe circumstances of release cancellation.*

○ Add the following fields that will prompt the user to select a more specific reason for cancellation: *Specific Sponsor Withdrawal Reason, Specific Reason for Child Discharge (Non-unification or Program),* and *Specific Administrative Closure Reason.*

Virtual Check-In Questionnaire (Form R–6) (Formerly Titled Safety and Well-Being Call)

There are two currently approved versions of this form under this information collection—one in Excel and one for UC Path. ORR proposes the below-listed revisions to the current UC Path version and plans to incorporate the revised version into the UC Portal system.

In addition, ORR is requesting continued use of the current Excel version of this instrument to support a phased rollout of improvements to the UC Portal system.

ORR updated the burden estimates for this form to reflect form revisions, to account for an increase in the number of care provider facilities and in the number of children placed in ORR care, and to improve burden accuracy. The burden estimate was split into three separate line items for each respondent. The annual number of respondents changed from 216 care providers to 40 PRS providers, 128,487 sponsors, and 128,487 children; the annual number of responses per respondent increased from 253 to 19,273 for PRS providers, 3 for sponsors, and 3 for children; and the average burden hours per response increased from 0.42 to 0.58 for PRS providers, 0.17 to 0.25 for sponsors, and 0.17 to 0.25 for children.

ORR plans to shift responsibility for conducting safety and well-being calls from care provider facilities to PRS providers. Moving forward these calls will be called virtual check-ins. All children released to a sponsor and their sponsors will continue to receive calls, however, the frequency of the calls will increase from one to three calls—conducted at seven business days, 14 business days, and 30 business days after the child's release from ORR custody.

ORR proposes the following revisions to the UC Path version of Form R–6 to support this change in process:

• Change the title to ''Virtual Check-In Questionnaire.''

• *Pre-Call Information*—This section will replace the UAC Basic Information and Case Information sections. The new section retains the child and sponsor information and adds fields to capture phone numbers for contacts in the care plan and in home country. All information in this section will be auto-populated.

• *Questions for the Sponsor*—This section will replace the Sponsor Address Confirmation and Sponsor Questions sections. The new section will include subsections for Location & Contact Information, Child's School, Child's Medical & Mental Health, Legal Services & Child's Immigration Court Dates, Safety & Well-Being, and Child's Work. This section adds 16 new questions. The section also retains, and in some cases adds additional follow-up questions for, the questions confirming the address, whether the child still lives with the sponsor, whether the child is registered for school, whether the child is having any behavioral or health issues, whether the sponsor has attended the Legal Orientation Program for Custodians of Unaccompanied Children (LOPC) presentation, whether the sponsor is aware of, and notified the child of, the child's next immigration

court date, whether the child has attended their scheduled court hearing, whether the sponsor still has the child's *Verification of Release* form, and whether the sponsor has been asked to pay for the release of the child.

- *Questions for the Child*—This section will replace the UAC Address Confirmation and UAC Questions sections. The new section will include subsections for Location, School, Medical & Mental Health, Immigration & Legal Services, and Safety & Well-Being (to include subsections for Post-Release, Work, and In-Care). The new section adds 34 new questions. The section also retains, and in some cases adds additional follow-up questions for, the questions confirming the address, whether the child still lives with the sponsor, whether the child is attending school, whether the child feels safe, whether the child has been adequately provided for, whether anyone has been asked to pay for the release of the child, whether the child is being forced to work or pay money, and whether the child is aware of their next immigration court date.
- *Post-Call Assessment and Outcomes*—This section will replace the following sections: Sponsor Interview, UAC Interview, Case Manager Observation and Action Follow-Up, UAC May be in Immediate Danger, UAC May be Unsafe, UAC May Have Been Sexually Abused or Harassed While in ORR Care, Additional Support Services or LOPC Appointment, and Case Manager Certification. The new section adds 5 new questions. The section also retains, and in some cases builds on, questions on whether the phone was disconnected, sponsor participation, whether the child appears to be in immediate danger, whether the child or sponsor should be assessed for additional PRS, post-call actions taken, and reasons for elevation (if applicable).

Discharge Plan (Form R–9)

ORR care providers are required to conduct discharge planning for children who are not likely to be released to a sponsor, may obtain a form of lawful immigration relief, are projected to have a prolonged stay in ORR care, and/or will soon turn age 18 and age out of ORR care. Discharge planning is a participatory process that takes into consideration the wishes and goals of the child and includes consultation with the child's legal services provider, attorney of record, child advocate, and other stakeholders (*e.g.,* parents, legal guardian in home country) as applicable. Case managers engage in concurrent planning, whenever possible, to ensure there are multiple options included in the child's discharge plan.

ORR developed this instrument to improve and standardize the process for discharge planning across its national network of care providers. The new instrument will collect information on the following topics:

- Child's Basic Information
- Placement Information After Release
- Financial Plan
- Education and Career Plan
- Community Resources Plan
- Residential Plan
- UC Program Family Group
- Case Management Needs
- Family Unification Plan
- Legal Services Plan
- Voluntary Departure Plan
- Release to DHS ICE Field Office Juvenile Coordinator Upon Age Out
- Transportation Plan
- Health Discharge Safety Plan
- Behavioral Health Support Summary
- Summary of Strengths and Life Skills

The Legal Services Plan section of this instrument will replace Post Legal Status Plan (Form L–8), which is currently approved under OMB# 0970–0565. ORR plans to submit a nonsubstantive change request to discontinue Form L–8 soon.

Respondents: ORR grantee and contractor staff; and released children and sponsors.

ANNUAL BURDEN ESTIMATES

Information collection title	Annual number of respondents	Annual number of responses per respondent	Average burden hours per response	Annual total burden hours
Verification of Release (Form R–1)	300	428	0.17	21,828
Discharge Notification (Form R–2)—Current UC Portal	300	487	0.17	24,837
Release Request (Form R–4)—Current UC Portal—Care Provider	300	430	0.42	54,180
Release Request (Form R–4)—Current UC Portal—Case Coordinator	170	756	0.33	42,412
Release Request (Form R–4)—Modernized UC Portal—Care Provider	300	430	0.58	74,820
Release Request (Form R–4)—Modernized UC Portal—Case Coordinator	170	756	0.50	64,260
Virtual Check-In Questionnaire (R–6)—Current Excel—Sponsor	128,487	1	0.25	32,122
Virtual Check-In Questionnaire (R–6)—Current Excel—Child	128,487	1	0.25	32,122
Virtual Check-In Questionnaire (R–6)—Current Excel—PRS Provider	40	19,273	0.75	578,190
Virtual Check-In Questionnaire (R–6)—Sponsor	128,487	3	0.25	96,365
Virtual Check-In Questionnaire (R–6)—Child	128,487	3	0.25	96,365
Virtual Check-In Questionnaire (R–6)—PRS Provider	40	19,273	0.58	447,134
Discharge Plan (Form R–9)	300	11	2.00	6,600
Program Exit Processing (Form R–10)—Modernized UC Portal	300	487	0.25	36,525
Estimated Annual Burden Hours Total				1,607,760

Authority: 6 U.S.C. 279; 8 U.S.C. 1232; *Flores* v. *Reno Settlement Agreement*, No. CV85–4544–RJK (C.D. Cal. 1996).

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2024–00077 Filed 1–5–24; 8:45 am]

BILLING CODE 4184–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Grants to States for Access and Visitation (Office of Management and Budget #: 0970–0204)

AGENCY: Division of Program Innovation, Office of Child Support Services, Administration for Children and Families, U.S. Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Division of Program Innovation (DPI), Office of Child Support Services (OCSS), Administration for Children and Families (ACF) is requesting a 3-year extension of the Access and Visitation Survey: Annual Report (Office of Management and Budget #: 0970–0204, expiration 6/30/2024). There are no requested changes to the form.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: You can obtain copies of the proposed collection of information and submit comments by emailing *infocollection@acf.hhs.gov.* Identify all requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The grantee and sub-grantee submit the spreadsheet and survey yearly. Information collected includes the number of applicants/referrals for each program, the total number of participating individuals, and the number of persons who have completed program requirements by authorized activities (mediation—voluntary and mandatory; counseling; education; development of parenting plans; visitation enforcement, including monitoring, supervision and neutral drop-off and pickup; and development of guidelines for visitation and alternative custody arrangements. OCSS uses the information to ensure recipient's adherence statutory (Sec. 469B. [42 U.S.C. 669b] and regulatory (45 CFR part 303)) requirements of ''*Grants to States for Access and Visitation.*''

Respondents: State child access and visitation programs and state or local service providers.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Annual number of responses per respondent	Average burden hours per response	Annual burden hours
Online Portal Survey by States and Jurisdictions	53	1	16	848
Survey of local service grantees	264	1	16	4,224

Estimated Total Annual Burden Hours: 5,072.

Comments: The Department specifically requests comments on (a) whether the proposed 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 proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: Sec.469B [42 U.S.C.669b]; 45 CFR part 303.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2024–00155 Filed 1–5–24; 8:45 am]

BILLING CODE 4184–41–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; 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 Aging Special Emphasis Panel; Alzheimer's Disease Sequencing Project.

Date: February 22, 2024.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Mariel Jais, PharmD, Scientific Review Officer, Scientific Review Branch, National Institute on Aging, 7201 Wisconsin Avenue, Gateway Bldg., Suite 2C212, Bethesda, MD 20892, (301) 594–2614, *mariel.jais@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: January 2, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–00075 Filed 1–5–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the

following meetings. The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Eunice Kennedy Shriver National Institute of Child Health and Human Development Special Emphasis Panel; Multicenter Clinical Trials; Leveraging Network (U01 Clinical Trial Optional).

Date: February 8, 2024.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710B Rockledge Drive, Room 2137B, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Vera A. Cherkasova, Ph.D., Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Room 2137B, Bethesda, MD 20892, (240) 478–4580, *vera.cherkasova@nih.gov.*

Name of Committee: Eunice Kennedy Shriver National Institute of Child Health and Human Development Special Emphasis Panel; Member Conflict: Developmental Biology Study Section.

Date: February 29, 2024.

Time: 10:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710B Rockledge Drive, Room 2137B, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Vera A. Cherkasova, Ph.D., Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Room 2137B, Bethesda, MD 20892, (240) 478–4580, *vera.cherkasova@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.865, Research for Mothers and Children, National Institutes of Health, HHS)

Dated: January 3, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–00110 Filed 1–5–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Eunice Kennedy Shriver National Institute of Child Health and Human Development Special Emphasis Panel; Senator Paul D. Wellstone Muscular Dystrophy Specialized Research Centers (MDSRC).

Date: February 29–March 1, 2024.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710B Rockledge Drive, Room 2131B, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Luis E. Dettin, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Rm. 2131B, Bethesda, MD 20892, (301) 827–8231, *luis_dettin@nih.gov.*

Name of Committee: Eunice Kennedy Shriver National Institute of Child Health and Human Development, Special Emphasis Panel; Member Conflict: Pediatrics and Obstetrics and Maternal-Fetal Biology Study Sections.

Date: March 20, 2024.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710B Rockledge Drive, Room 2131D, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Anita Szajek, Ph.D., Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6701 Rockledge Drive, Room 2131D, Bethesda, MD 20892, *anita.szajek@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.865, Research for Mothers and Children, National Institutes of Health, HHS)

Dated: January 3, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–00118 Filed 1–5–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Eunice Kennedy Shriver National Institute of Child Health and Human Development Initial Review Group; Health, Behavior, and Context Study Section.

Date: February 26, 2024.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710B Rockledge Drive, 2137C, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kimberly L. Houston, M.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Room 2137C, Bethesda, MD 20892, (301) 827–4902, *kimberly.houston@nih.gov.*

Name of Committee: Eunice Kennedy Shriver National Institute of Child Health and Human Development Initial Review Group; Pediatrics Study Section.

Date: March 7, 2024.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710B Rockledge Drive, Room 2131D, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Anita Szajek, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6701 Rockledge Drive, Room 2131D, Bethesda, MD 20892, *anita.szajek@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.865, Research for Mothers and Children, National Institutes of Health, HHS)

Dated: January 3, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–00115 Filed 1–5–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meetings

Pursuant to section 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: Biobehavioral and Behavioral Sciences Study Section.

Date: March 19, 2024.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710B Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Chi-Tso Chiu, Ph.D., Scientific Review Branch (SRB), Eunice Kennedy Shriver National Institute of Child Health & Human Development, NIH, DHHS, 6710B Rockledge Drive, Rm. 2127B, Bethesda, MD 20817, (301) 435–7486, *chiuc@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: January 3, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–00113 Filed 1–5–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Eunice Kennedy Shriver National Institute of Child Health and Human Development Initial Review Group; Obstetrics and Maternal-Fetal Biology Study Section.

Date: March 22, 2024.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710B Rockledge Drive, Room 2131B, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Luis E. Dettin, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Room 2131B, Bethesda, MD 20892, (301) 827–8231, *luis.dettin@nih.gov.*

Name of Committee: Eunice Kennedy Shriver National Institute of Child Health and Human Development Initial Review Group; Function, Integration, and Rehabilitation Sciences Study Section.

Date: April 8–9, 2024.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710B Rockledge Drive, Room 2125D, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Moushumi Paul, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Room 2125D, Bethesda, MD 20817, (301) 496–3596, *moushumi.paul@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.865, Research for Mothers and Children, National Institutes of Health, HHS)

Dated: January 3, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–00114 Filed 1–5–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Dr. Terrence Joyce at (240) 987–2347, or *Terrence.joyce@NIH.gov.* Licensing information may be obtained by communicating with the Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases, 5601 Fishers Lane, Rockville, MD 20852: tel. 301–496–2644. A signed Confidential Disclosure Agreement will be required to receive copies of unpublished information related to the invention.

SUPPLEMENTARY INFORMATION: Technology description follows:

Vesicular Stomatitis Virus (VSV)-Based Vaccine Against Sudan Virus

Description of Technology:

There are five known Ebolavirus species: Ebola virus (Zaire ebolavirus); Sudan virus (Sudan ebolavirus or SUDV); Taï Forest virus (Taï Forest ebolavirus, formerly Cote d'Ivoire ebolavirus); Bundibugyo virus (Bundibugyo ebolavirus); and Reston virus (Reston ebolavirus). Last year an ebolavirus outbreak resulted in 164 cases and 55 deaths. While there is an

FDA-approved Ebola virus vaccine authorized for use against Ebola virus infections, ERVEBO, this vaccine is not effective against SUDV due to the significant variation between Ebola virus and SUDV. ERVEBO is a live recombinant viral vaccine consisting of a vesicular stomatitis virus (VSV) backbone deleted for the VSV envelope glycoprotein and substituted with the envelope glycoprotein of the Ebola virus (Kikwit 1995 strain).

This invention provides a VSV-based vaccine expressing the SUDV-Gulu GP (VSV–SUDV). The VSV backbone of this vaccine appears to be very similar to the VSV backbone used in the ERVEBO vaccine discussed above. This could allow for a quicker and more efficient regulatory approval pathway through the FDA. Efficacy studies in non-human primates demonstrated that a single intramuscular vaccination protected animals from a lethal challenge dose of SUDV even when vaccination occurred only seven days prior to challenge. In addition, pre-exposure to the VSV vector did not inhibit a robust response to the SUDV GP component of the vaccine.

This technology is available for licensing for commercial development in accordance with 35 U.S.C. 209 and 37 CFR part 404, as well as for further development and evaluation under a research collaboration.

Potential Commercial Applications:

- Prophylactic usage against SUDV infections in normal or high-risk populations.
- Therapeutic treatment, alone or in combination, in patients with SUDV infection.
- Assay development for surveillance, diagnostic, and prevention measures.

Competitive Advantages:

- Uses a VSV-based system to express antigens thereby increasing safety of the vaccine.
- Efficacious after single low dose vaccination in NHPs.
- VSV-platform induces a strong & rapid immune response.

Development Stage: Pre-clinical.

Inventors: Andrea Marzi, Ph.D., and Heinz Feldmann, MD, Ph.D., both of NIAID.

Publications: Marzi, A, et al., ''Species-specific immunogenicity and protective efficacy of a vesicular stomatitis virus-based Sudan virus vaccine: a challenge study in macaques,'' *Lancet Microbe,* 2023 Mar;4(3): e171-e178. doi: 10.1016/S2666–5247(23)00001–0. Epub 2023 Feb 2.

Intellectual Property: U.S. Provisional Application No. 63/419,637, filed October 26, 2022, U.S. Provisional Application No. 63/517,246 filed August 02, 2023, and PCT application PCT/US2023/077444 filed on October 20, 2023.

Licensing Contact: To license this technology, please contact Dr. Terrence Joyce at (240) 987–2347, or *Terrence.joyce@NIH.gov,* and reference E–002–2023.

Collaborative Research Opportunity: The National Institute of Allergy and Infectious Diseases is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this technology. For collaboration opportunities, please contact Dr. Terrence Joyce at (240) 987–2347, or *Terrence.joyce@NIH.gov.*

Dated: January 2, 2024.

Haiqing Li,

Acting Deputy Director, Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases.

[FR Doc. 2024–00087 Filed 1–5–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Eunice Kennedy Shriver National Institute of Child Health and Human Development Initial Review Group; Reproduction, Andrology, and Gynecology Study Section.

Date: February 15, 2024.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710B Rockledge Drive, Room 2125D, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jagpreet Singh Nanda, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Room 2125D, Bethesda, MD 20892, (301) 451–4454, *jagpreet.nanda@nih.gov.*

Name of Committee: Eunice Kennedy Shriver National Institute of Child Health and Human Development, Initial Review Group; Developmental Biology Study Section.

Date: February 23, 2024.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710B Rockledge Drive, Room 2131B, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jolanta Maria Topczewska, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Room 2131B, Bethesda, MD 20892, (301) 451–0000, *jolanta.topczewska@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.865, Research for Mothers and Children, National Institutes of Health, HHS)

Dated: January 3, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–00112 Filed 1–5–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2023–0586]

National Commercial Fishing Safety Advisory Committee; September 2023 Meetings

AGENCY: United States Coast Guard, Department of Homeland Security.

ACTION: Notice of availability of recommendations and request for comments.

SUMMARY: The U. S. Coast Guard announces the availability of recommendations from the National Commercial Fishing Safety Advisory Committee (NCFSAC). The Committee met in September 2023 and sent eight recommendations to the Secretary of Homeland Security. The U.S. Coast Guard issues this Notice as the mechanism for receiving public comments and requests public comments on the recommendations.

DATES: Comments must be submitted on or before April 8, 2024.

ADDRESSES: You may submit comments identified by docket number USCG–2023–0586 using the Federal Decision Making Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: For information about this document email questions to *Jonathan.G.Wendland@uscg.mil* or call 202–372–1245.

SUPPLEMENTARY INFORMATION:

Public Participation and Comments

We encourage you to submit comments (or related material) on the committee recommendations. If you submit a comment, please include the docket number for this notice, indicate the specific recommendation to which each comment applies, and provide a reason for each suggestion.

Submitting comments. We encourage you to submit comments through the Federal Decision Making Portal at *http://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2023–0586 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 *http://www.regulations.gov,* contact the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

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

Personal information. We accept anonymous comments. Comments we post to *https://www.regulations.gov* will include any personal information you have provided. You may wish to view the Privacy & Security Notice and the User Notice, which are both available on the homepage of *https://www.regulations.gov,* and DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Discussion

The National Commercial Fishing Safety Advisory Committee is authorized by section 601 of the *Frank LoBiondo Coast Guard Authorization Act of 2018,* (Pub. L. 115–282, 132 Stat. 4190), and is codified in 46 U.S.C. 15102. The Committee operates under the provisions of the *Federal Advisory Committee Act* and 46 U.S.C. 15109.

The National Commercial Fishing Safety Advisory Committee provides advice and recommendations to the Secretary of Homeland Security through the Commandant of the U. S. Coast Guard, on matters relating to the safe operation of vessels. Additionally, the Committee will review regulations proposed under chapter 45 of title 46 of U.S Code (during preparation of the regulations) and review marine casualties and investigations of vessels covered by chapter 45 of title 46 U.S. Code and make recommendations to the Secretary to improve safety and reduce vessel casualties.

The National Commercial Fishing Safety Advisory Committee (the committee) met from September 26, 2023 to September 28, 2023 (88 FR 60961).[1] The U. S. Coast Guard issued 10 tasks to the committee, and the committee sent eight recommendations to the Secretary based on those tasks. As required by 46 U.S.C. 15109(j)(3)(B), the U.S. Coast Guard is establishing a mechanism for the submission of public comments on these recommendations.

Description of Task #04–23: Review the multi-year statistics (provided by the U.S. Coast Guard) regarding commercial fishing vessels of less than 200 gross ton accidents or losses that resulted in fatalities, injuries, or property damage. Major marine casualties such as the loss of the DESTINATION, NO LIMITS, and other fishing vessels with multiple fatalities and vessel losses should be reviewed to provide the background information necessary to other supplementary taskings in best efforts to make informed recommendations to the U.S. Coast Guard.

NCFSAC Task #04–23 Recommendation: Following review, no Committee recommendations were made to the U.S. Coast Guard.

Description of Task #05–23: Examine and make recommendations to the U.S. Coast Guard on best practices to reduce and mitigate the negative consequences caused by the misalignment of state and federal regulations regarding drug laws legalizing the recreational and/or medical use for drugs also classed as dangerous drugs by federal law and applicable transportation related statutes. This is critical for the safety of operations and creating an environment for vessel personnel to work in a drug-free workplace, with special emphasis on critical safety sensitive jobs such as navigation and engineering duties to bring fishing vessels into alignment with other commercial vessels. Develop recommendations that include testing for pre-employment, routine, and reasonable cause.

NCFSAC Task #05–23 Recommendation: Following review, no Committee recommendations were made to the U.S. Coast Guard.

Description of Task #06–23: Examine and effectively disseminate recommendations for best practices to ensure full crew access to all parts of a vessel to allow for safe vessel operation. This task should address and examine things like a means to access all areas of the vessel and allow the crew to safely move fore and aft to remove ice, inspect the vessel, and operate critical equipment like the vessel's anchors and similar gear that does not require the crew to climb over the pot stack (for example, in the case of a vessel carrying pots, nets or similar devices to create pathways for access).

NCFSAC Task #06–23 Recommendation:

A. In so much as is practicable, all spaces subject to flooding and/or necessary spaces for safe vessel operation should be accessible by crew during normal operations.

B. In the event this is impractical, and access is over stacked deck equipment (*i.e.,* pot stacks or deck cargo) the committee recommends establishing vessel procedures which may include the use of tag lines, the buddy system, Personal Flotation Device worn, Personal locator Beacons Man Overboard beacon's etc.

C. For spaces where access may be blocked, consideration may be given to supplementing high water alarms with infrared cameras, increased maintenance frequency on watertight seals, dogs, knife edges, etc., and also on bilge level alarms. Consideration may be given as well to secondary means of de-watering (*i.e.,* deck connection for a de-watering/trash pump).

Description of Task #07–23: Establish best practices for standard procedures and guidance for crew standing navigation watches. This should include a detailed crew orientation for each unique vessel, including the operation of critical equipment and establish clear and easily understood watchstanding orders to protect the safety of the vessel during its applicable operations. This

[1] The U.S. Coast Guard gave public notice of this meeting on September 6, 2023. 88 FR 60961.

could be accomplished as a standardized form or checklist.

NCFSAC Task 07–23 Recommendation:

A. The committee recommends that the Voluntary Safety Initiatives and Good Marine Practices Document is updated to include a section on ''Best Practices for Standing Navigational Watch'' This section should include the following statement.

1. The individual in charge of the vessel should have a watchstanding policy for their vessel and any crew member standing a navigational watch should be informed and understand the responsibilities stated in the policy.

2. The policy may contain items such as:

i. Be familiar with the use and operation of the vessel's engine and gear controls.

ii. Be familiar with the use and operation of the vessel's Electronic Navigation Systems (ENS)

iii. Be familiar with the use and operation of the vessel's Radar, Depth Sounder, Autopilot, and AIS (Automatic Identification System). Further the CM will understand the use and operation of ARPA (Automatic Radar Plotting Aid) and the use and operation of AIS both with Radar and ENS and know how to determine CPA (Closet Point of Approach).

iv. Be familiar with the Vessel's Rules of the Road handbook and understand how they apply to watch standing on the vessel.

v. Be familiar with the use and operation of the Vessel's VHF radios, and will understand the need to monitor Channels 16, a common traffic and distress frequency, and Channel 13, a common vessel to vessel frequency.

vi. Be familiar with the use and operation of the Vessel's Watch Alarm, and ensure it is set for an appropriate period, generally 10 minutes after dusk, and 15 minutes during daylight hours.

vii. Be familiar with the use and operation of the vessels Navigation Lighting and will ensure the proper outlook is had.

viii. Be familiar with the use and operation of the Vessel's Fishing Lights and know their appropriate usage.

ix. If the crew member is unsure of their observations, they should immediately notify the Individual in Charge.

B. The committee recommends that the U.S. Coast Guard change the name of the

Voluntary Safety Initiatives and Good Marine Practices document to ''Commercial Fishing Vessel Best Safety Practices.''

Description of Task #08–23: Evaluate and provide a comprehensive list of recommendations to the U.S. Coast Guard, in the form of best practices (NVICs, policies, training), or amended or new regulations, regarding stability considerations which may pose severe risk to the safety of a fishing vessel such as icing, loading, the need for stability instructions, and vessel modifications. As part of this task, review the U.S. Coast Guard current level of oversight, provide recommendations on its adequacy, and specify needed changes to areas of the fishing safety program that need additional attention.

NCFSAC Task #08–23 Recommendation:

A. Operators of commercial fishing vessels of any sizes are encouraged as a best practice to attend a commercial fishing vessel stability training program. Operators are encouraged to share their experiences/stories of stability related issues in training. Where applicable, operators are encouraged to bring their vessel-specific stability instructions to this training.

B. Operators of commercial fishing vessels are encouraged as a best practice to implement procedures prior to departing port, such as observation of the vessel's trim, check condition of freeing ports and scuppers, watertight/weathertight doors, and closures if applicable. 08–23 Recommendations to the USCG

C. With regard to smaller vessels, the committee advises the U.S. Coast Guard look at other agencies, port controls on how they are implementing best practices for vessel stability safety (*i.e.,* MCA recommendations regarding the Wolfson method).

D. The committee recommends that the USCG provides formalized training to its FV Examiners on the topic of compliance with vessel stability regulations, specific to the U.S. Coast Guard District and fleets within the District (*i.e.,* vessel service).

Description of Task #09–23: Evaluate and provide recommendations to the U.S. Coast Guard for best practices to address the high degree of risk associated with fishing vessel operations and how the acceptance of risk is prevalent and accepted in the fishing industry. Specifically, the Marine Board recommends the committee focus on topics including icing, heavy weather avoidance in voyage planning, and formalizing the navigation watch duties via onboard familiarization and written standard orders to ensure the safety of vessel during its transit and during fishing operations.

NCFSAC Task #09–23 Recommendation:

A. U.S. Coast Guard liaise with industry to understand and identify training needs addressing risks specific to individual fisheries. This can be accomplished in conjunction with dockside safety examinations, during industry events, (*i.e.,* Pacific Marine Expo) or other forums, and social media. The committee understands some of these training needs may be broadly identified, whereas others may be very specific, based on fishery.

B. U.S. Coast Guard then work with industry to develop fishery specific training programs for implementation.

Description of Task #10–23: Evaluate and provide recommendations to the U.S. Coast Guard to ensure the most effective means to widely disseminate critical safety information for the commercial fishing industry.

NCFSAC Task #10–23 Recommendation: U.S. Coast Guard CVC–3 use it's FVS examiner network, fishing journals and other internet and printed materials to promote the U.S. Coast Guard website as a resource for commercial fishermen.

Description of Task #11–23: Review and provide recommendations on the development of a publicly accessible website that contains all information related to fishing industry activities, including vessel safety, inspections, enforcement, hazards, training, regulations (including proposed regulations), outages of the Rescue 21 system in Alaska and similar outages, and any other fishing-related activities.

NCFSAC Task #11–23 Recommendation: U.S. Coast Guard continue the development of a publicly accessible website as required by Coast Guard Authorization Act 2022 Sec 11322 that contains all information related to fishing industry activities. The publicly accessible website should have a button at the bottom of each page to provide suggestions or feedback to [''improve this page'']. This website should be available to the full committee for suggestions on improvements for 6 weeks prior to the site going live. Additionally, we encourage the U.S. Coast Guard to measure the analytics and usage rates for ongoing development of the website, so it is a more useful resource for fisherman.

Description of Task #12–23: Discuss and make recommendations requiring watch alarms on specific types of commercial fishing vessels.

NCFSAC Task #12–23 Recommendation: U.S. Coast Guard initiate a rule making that would require Watch Alarms on vessels 36 feet and over that operate outside the Boundary Line as defined in 46 CFR part 7.

Description of Task #13–23: Examine and make recommendations to the U.S. Coast Guard on a way to widely distribute personal location beacons at minimal expense. Ensure availability and access for crewmembers of these critical lifesaving devices which could be acquired by consortiums, associations, or other organizations for distribution to vessel crews through federally funded grant programs or other programs.

NCFSAC Task #13–23 Recommendation: U.S. Coast Guard encourage the availability of FCC approved Personal Location Beacons at reduced cost through grants or funding through such as the U.S. Coast Guard/NIOSH research and training grants, Alaska CDQ programs, Sea Grant Regions, local fishing organizations and/or other non-profits or entities.

The NCFSAC recommendations are available in the docket and also can also be found on our website at *https://www.dco.uscg.mil/NCFSAC2023/*or going to *https://www.uscg.mil* and clicking on the following links: *United States Coast Guard > Our Organization > Assistant Commandant for Prevention Policy (CG–5P) > Inspections & Compliance (CG–5PC) > Commercial Vessel Compliance > Fishing Vessel Safety Division > NATIONAL COMMERCIAL FISHING VESSEL ADVISORY COMMITTEE > MEETINGS >2023* and clicking on the link ''*USCG Comments to NCFSAC SEATTLE RECOMMENDATIONS*''

We invite public comments on these recommendations.

Dated: January 3, 2024.

Amy M. Beach,

Captain, U.S. Coast Guard, Director of Inspections and Compliance.

[FR Doc. 2024–00105 Filed 1–5–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6437–N–01]

Notice of Intent To Prepare an Environmental Impact Statement for the Fulton Elliott-Chelsea Houses Redevelopment Project in Manhattan, New York

AGENCY: Office of the Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (HUD).

ACTION: Notice of Intent (''NOI'') to prepare an Environmental Impact Statement (''EIS'').

SUMMARY: New York City, through the New York City Department of Housing Preservation and Development (''HPD''), and the New York City Housing Authority (''NYCHA''), are providing Notice of Intent (''NOI'') to prepare an EIS for the proposed Fulton Elliott-Chelsea Houses Redevelopment Project in Manhattan, New York. As part of the NYCHA Permanent Affordability Commitment Together (''PACT'') Program, NYCHA intends to submit an application(s) to the United States Department of Housing and Urban Development (''HUD'') for: disposition of public housing, and conversion of Section 9 public housing subsidies to Section 8 Project Based Vouchers (''PBVs'') under the HUD Rental Assistance Demonstration (''RAD'') Program and Section 18 of the U.S. Housing Act of 1937 (''USHA'') as amended. This NOI initiates the public scoping for the EIS, and provides project information on the proposed action, the proposed action's purpose and need, and the alternatives being considered for evaluation in the EIS. This NOI invites public comments on the environmental impacts that may be associated with the proposed action and alternatives.

DATES: Comments on the Draft Scope of Work (''DSOW'') will be accepted during the Public Scoping Meetings and, in writing, until 5 p.m. on Tuesday, February 20, 2024. See ''Instructions for submitting comments'' below for further information.

ADDRESSES: Interested members of the public, tribes, and agencies are invited to submit comments to be considered on the proposed scope of the EIS, the proposed action's purpose and need, the identification of alternatives to be considered, the environmental benefits and impacts to be evaluated, and any other project-related issues or analysis. Written comments may be submitted electronically via email to *nepa_env@hpd.nyc.gov* and, in hard copy via regular mail, to: Department of Housing Preservation and Development, Attn: Anthony Howard, 100 Gold Street, #7–A3, New York, NY 10038.

FOR FURTHER INFORMATION CONTACT: Anthony Howard, Director of Environmental Planning, Department of Housing Preservation and Development—Division of Building and Land Development Services, 100 Gold Street, #7–A3, New York, NY 10038; email: *Nepa_env@hpd.nyc.gov,* phone: 212–863–7248.

SUPPLEMENTARY INFORMATION:

A. Background

New York City, through HPD, as Responsible Entity and joint lead agency in accordance with 24 CFR 58.2(a)(7), and NYCHA, serving as local project sponsor and joint lead agency in accordance with 40 CFR 1501.7(b), are providing this NOI to prepare an EIS for the proposed Fulton Elliott-Chelsea Houses Redevelopment Project in Manhattan, New York (the ''proposed action'' as further described below). The proposed action to be evaluated in the EIS includes the replacement of existing NYCHA buildings (including residential and community facility uses and the development of new residential buildings) across the Fulton, Elliott, Chelsea, and Chelsea Addition Houses campuses in Manhattan (the ''Project Sites''). As part of the PACT Program, NYCHA intends to submit an application(s) to HUD for: (1) disposition of public housing property as authorized under Section 18 of USHA as amended and implementing regulations at 24 CFR part 970 (''Section 18''), and (2) conversion of subsidies under Section 9 of USHA (42 U.S.C. 1437g) to PBV subsidies under Section 8 of USHA (42 U.S.C. 1437f) in accordance with the RAD Program, created by the Consolidated and Further Continuing Appropriations Act of 2012, as amended, and the RAD Notice REV 4 (PIH Notice 2019–23 as supplemented in RAD Supplemental Notice 4B published July 27, 2023).

Under the PACT Program, NYCHA would enter into a long-term ground lease(s) involving the Project Sites with Elliott Fulton LLC, a joint venture between Essence Development and The Related Companies (and/or affiliates thereof) (collectively, the ''PACT Partner''). Such planned activities and applications at HUD-assisted Project Sites require environmental clearance.

HPD and NYCHA will prepare the EIS in accordance with the National Environmental Policy Act of 1969 as amended, 42 U.S.C. 4321 *et seq.* (''NEPA''), the Council of Environmental Quality (''CEQ'') NEPA Regulations at 40 CFR parts 1500–1508, and HUD implementing regulations at 24 CFR part 58, and as appropriate, the New York State Environmental Quality Review Act (''SEQRA'') and New York City Environmental Quality Review (''CEQR'').

B. Project Sites

The Project Sites consist of four NYCHA developments: Chelsea, Chelsea Addition, Elliott, and Fulton Houses, which are located across two separate public housing campuses in the Chelsea

neighborhood of Manhattan. Existing uses on the Project Sites include 2,056 NYCHA dwelling units (DUs), community center spaces, recreational space, and 95 accessory parking spaces. As they are separated by approximately a quarter mile, Fulton and Elliott-Chelsea are described separately. Fulton Houses (the ''Fulton Houses Project Site'') is generally bounded by West 20th Street to the north, 9th Avenue to the east, West 16th Street to the south, and 10th Avenue to the west. The Fulton Houses Project Site consists of eleven buildings, including three 25-story and eight seven-story buildings. These buildings were constructed in the early 1960s and contain 944 residential units which house approximately 2,100 residents. Hudson Guild, a multi-service non-profit community agency serving those who live, work, or go to school in Chelsea and the surrounding area, operates a community center and office space on the Fulton Houses Project Site.

There are a wide range of land uses surrounding the Fulton Houses Project Site, including residential, commercial, institutional, and open space. These uses are governed by different underlying zoning regulations, which are applied to certain geographic areas (known as Zoning districts). Zoning districts in the vicinity of the Fulton Houses Project Site include: a R7B residential district with a C2–5 commercial overlay along 10th Avenue to the north; a C2–6A commercial district (a R8A residential district equivalent), a R8 residential district with a C2–5 commercial overlay, and a R7B residential district to the east; a M1–5 manufacturing district to the south; and a C6–3 commercial district (a R9 residential district equivalent) and a R8A residential district with a C2–5 commercial overlay along 10th Avenue to the west. Some portions of the above are in the Special West Chelsea District, an area in which special zoning rules apply. These rules may modify or supersede the underlying zoning.

The Chelsea, Chelsea Addition, and Elliott Houses (collectively, the ''Elliott-Chelsea Houses Project Site'') are generally bounded by West 27th Drive to the north, 9th Avenue to the east, West 25th Street to the south, and 10th Avenue to the west, with Chelsea Park adjacent to the north side of the Site. Elliott Houses was constructed in the 1940s. The campus includes four 11–12 story buildings. These buildings contain 591 residential units and house approximately 1,200 residents. There is also an early childhood center. Chelsea Houses was constructed in the early 1960s. The campus includes two 21-story buildings. These buildings contain 425 residential units and house approximately 1,000 residents. Chelsea Addition Houses was constructed in 1968. It is a single 14-story building. The building contains 96 residential units and houses approximately 110 residents. The building is designated for elderly families (42 U.S.C. 1437e). Hudson Guild also operates a community center, offices, and recreational space located within a building adjoining the Chelsea Addition building on the Elliott-Chelsea Houses Project Site.

There are a wide range of land uses surrounding the Elliott-Chelsea Houses Project Site, which include residential, institutional, commercial, open space, and transportation/utility; the latter use including the U.S. Postal Service Manhattan Vehicle Maintenance Facility and the NYC Department of Sanitation Repair Shop, both located between 11th and 12th Avenues. Zoning districts in the vicinity of the Elliott-Chelsea Houses Project Site include: a C6–4 commercial district (a R10 residential equivalent) to the north of Chelsea Park (which as mapped parkland does not have a zoning designation); a R8 residential district to the east; a C2–6 commercial district (a R8 residential equivalent) to the southeast; R7B and R8A residential districts to the south; a C6–3 commercial district (a R9 residential equivalent) and a M1–5 manufacturing district to the west (along with the Special West Chelsea District).

C. Purpose and Need

As stated above, the Elliott Houses were built in the 1940s and the Chelsea Houses and Fulton Houses were built in the early 1960s. Chelsea Addition was built in 1968. The buildings and units within these developments have seriously deteriorated and require substantial repair and rehabilitation. These issues include, but are not limited to, persistent mold and leaks, the presence of lead-based paint, outdated mechanical and electrical systems, and outdated fixtures and appliances. These issues negatively impact the quality of life of residents.

The purpose of the proposed action is to improve the quality of life and housing stability for existing public housing residents of the Fulton and Elliott-Chelsea Houses. It would do so by constructing new PBV-assisted housing for all existing residents, while also preserving permanent affordability and residents' rights under the PACT Program. The purpose of the proposed action is also to facilitate the construction of additional affordable and market rate housing units to address the critical shortage of affordable housing and housing in general in New York City and financially support the PACT portion of the project. This would help to address the critical shortage of affordable housing in New York City through the construction of hundreds of new housing units, both affordable and market rate. The new affordable units would directly address the shortage by increasing New York City's affordable housing stock while the new market-rate units would indirectly address the shortage by increasing the overall supply of housing in New York City. The proposed action will also facilitate the development of additional community facility, retail and open space for the benefit of NYCHA residents and the surrounding community.

D. Proposed Action

The proposed action contemplates the following activities:

(a) The staged demolition and replacement of all existing dwelling units and community facility spaces at the Project Sites; and

(b) The staged development of new mixed-use buildings, including affordable and market rate residential units, new community facility spaces, and new retail (including supermarket) uses at the Project Sites.

The proposed action would facilitate the staged replacement of the following existing uses, including:

(a) 2,056 DUs at the Fulton and Elliott-Chelsea developments;

(b) Approximately 67,159 gross square feet (gsf) of existing community facility space currently operated by Hudson Guild; and

(c) 95 accessory parking spaces.

New development would follow the above-described actions. Two development alternatives for the proposed action have been identified and will be analyzed in the EIS, referred to as the Rezoning Alternative and the Non-Rezoning Alternative.

The Rezoning Alternative would require approvals from the New York City Planning Commission (CPC) through the Uniform Land Use Review Procedure (ULURP). This alternative would result in additional development, including:

(a) Up to an additional 3,454 new DUs, with a mix of up to 1,038 affordable DUs (*i.e.,* up to 30 percent of the total) and up to 2,416 market rate DUs (*i.e.,* up to 70 percent of the total). The affordable DUs would be developed in mixed-income buildings consistent with New York City's Mandatory Inclusionary Housing (MIH) requirements;

(b) Up to 46,364 gsf of local retail (including supermarket) space;

(c) Up to an additional 108,693 gsf of community facility space; and

(d) 1 additional parking space at the Fulton Houses Project Site.

The Non-Rezoning Alternative would not require the approval of the CPC. It would result in additional development, including:

(a) Up to an additional 1,783 new DUs, with a mix of up to 536 affordable DUs and 1,247 market-rate DUs in new mixed-income buildings. The affordable DUs will be developed in mixed-income buildings and recorded in the NYCHA Regulatory Agreement and other transaction documents between NYCHA and the PACT Partner;

(b) Up to 29,075 gsf of local retail (including supermarket) space;

(c) Up to an additional 132,549 gsf of community facility space; and

(d) 1 additional parking space at the Fulton Houses Project Site.

The proposed action would involve the staged demolition of all 18 existing buildings across the Project Sites and their staged replacement with new buildings. The staging of the proposed action will be designed to minimize disruption to the existing residents on site. The estimated completion date for the proposed action is 2040 (which is referred to as the ''build year''). Under the Rezoning Alternative, there would be 15 new buildings ranging in height from 11 stories (approximately 140.33 feet) to 39 stories (approximately 416.0 feet) with a total of 96 accessory parking spaces on site. Under the Non-Rezoning Alternative, there would be 17 new buildings ranging in height from 11 stories (approximately 140.33 feet) to 39 stories (approximately 416.0 feet).

The EIS will analyze the net incremental changes to the Project Sites under both the Rezoning Alternative and Non-Rezoning Alternative. These alternatives will be compared to a No-Action Alternative, which assumes that the existing buildings would remain, no new development would occur on the Project Sites, and routine maintenance and repairs would continue. This analysis ensures that the potentially most severe environmental impacts resulting from the proposed action are considered in the environmental review.

In October 2023, the New York State Office of Parks, Recreation, and Historic Preservation, State Historic Preservation Office (''SHPO'') stated that review was required under Section 106 of the National Historic Preservation Act (NHPA) for Elliott-Chelsea Houses. This site is eligible for listing on the State and National Register of Historic Places (S/NR). Section 106 requires a process of outreach and consultation with SHPO and interested parties, tribes, or agencies. Outreach will also be conducted to the general public.

In addition to outreach and consultation under Section 106, implementation of the proposed action will require federal, state and local approvals. These include HUD approvals for the disposition of public housing property as authorized under HUD Section 18 and NYCHA board approval of a long-term ground lease(s) with the PACT Partner.

The Rezoning Alternative would require approval from the CPC pursuant to the New York City Uniform Land Use Review Procedure (ULURP). The land use actions sought before the CPC would include: a zoning map amendment to establish zoning districts that would allow the proposed bulk and height; a zoning text amendment to designate the Projects Sites as Mandatory Inclusionary Housing Areas (MIHAs); and a large-scale general development (LSGD) special permit to facilitate the proposed site plan. The Non-Rezoning Alternative would not require approval from the CPC pursuant to ULURP.

Each alternative described above will be evaluated at an equal level of detail for each impact category. The analysis will be conducted consistent with the applicable screening thresholds, methodologies, and impact determination thresholds.

E. Proposed Action Alternatives

Consistent with the CEQ regulations implementing NEPA, the EIS will examine a range of reasonable alternatives (40 CFR 1502.14) to the Proposed Action that are potentially feasible. As required by NEPA, each of the alternatives will be evaluated at an equal level of detail. As a result of the project planning efforts to date, the alternatives currently proposed for evaluation in the EIS include:

(a) *No-Action Alternative:* As discussed above.

(b) *Rezoning Alternative:* As discussed above.

(c) *Non-Rezoning Alternative:* As discussed above.

F. Need for the EIS

The Proposed Action described above has the potential to significantly affect the quality of the human environment. The implementing regulations of the CEQ (40 CFR parts 1500–1508) and HUD's regulations (24 CFR part 58) require the preparation of an EIS in accordance with NEPA requirements. Responses to this notice will be used to: (1) determine significant environmental issues; (2) assist in developing a range of alternatives to be considered; (3) identify issues that the EIS should address; and (4) identify agencies and other parties that will participate in the EIS process and the basis for their involvement.

G. Probable Environmental Effects

Due to the increase in the number of residents and expansion of the built environment, the proposed action could have the potential for significant environmental impacts in the following areas, which will be addressed in the EIS: Land Use, Zoning, and Public Policy; Coastal Zone Management/ Waterfront Revitalization Policies (WRP); Floodplain Management and Flood Insurance; Socioeconomic Conditions; Environmental Justice; Community Facilities and Services; Open Space; Incremental Shadows; Historic and Cultural Resources/Historic Preservation; Urban Design and Visual Resources; Natural Resources; Hazardous Materials; Water and Sewer Infrastructure; Solid Waste and Sanitation Services; Energy; Transportation; Air Quality; Greenhouse Gas Emissions and Climate Change; Noise; Public Health; Neighborhood Character; and Construction Impacts.

The NEPA Draft Scope of Work includes a preliminary list of anticipated permits and approvals from Federal, State, and local agencies. HPD and NYCHA will coordinate with appropriate agencies or entities for compliance with federal, local and state laws. The NEPA EIS will also assist relevant entities in any eventual CEQR and/or SEQRA findings.

HPD and NYCHA invite all interested parties to participate in the scoping meetings.

H. Scoping

The publication of this Notice serves to initiate the public scoping period. Following the scoping process and the finalization of the scoping framework, the preparation of the Draft Environmental Impact Statement (DEIS) will commence. The DEIS will include relevant information, assessments, and analyses of the Proposed Action's potential environmental effects. Once the DEIS is completed, it will be made available to the public through a Notice of Availability public posting in the **Federal Register** and posted on *https://www.nyc.gov/site/nycha/about/pact/Chelsea-Fulton.page.* It will be subject to a minimum 45-day public comment period from the date of publication, including a public hearing. Additionally, the availability of the DEIS and public comment opportunities

will be announced through public notices, public mailings and the local news media. All interested federal, state, and local agencies, Indian Tribes and the public are invited to comment on the scoping documents and DEIS (when available), including comments on the identification of potential alternatives, information, and analyses relevant to the proposed action. Agencies with jurisdiction over natural or other public resources affected by the project or that possess information about the Project Sites that HPD should consider in the DEIS are invited to submit comments to the individuals named in this Notice.

No decisions about the project will be made at the Public Scoping Meeting. After the public scoping period, HPD, NYCHA, and the PACT Partner will compile the comments that are received to develop a Final Scope of Work for the DEIS. A Notice of Availability of the DEIS is anticipated to be published in the **Federal Register** in the Spring of 2024. After the DEIS public comment period, a Final Environmental Impact Statement (FEIS) will be prepared. At this time, it is anticipated that a Notice of Availability of the FEIS will be published in the **Federal Register** in the Summer/Fall 2024, after which a Record of Determination (ROD) and Statement of Findings will be issued.

I. Instructions for Submitting Comments

Instructions for participating in the scoping meetings are available at *https://www.nyc.gov/site/nycha/about/pact/Chelsea-Fulton.page,* along with the DSOW. The registration instructions will be available on NYCHA's project website a minimum of two weeks prior to each public meeting. NYCHA and HPD will conduct two in-person scoping meetings. The first will begin at 6 p.m. Eastern Standard Time (''EST'') on Thursday February 1, 2024 and will be held at the Hudson Guild Fulton Community Center on the Fulton Campus (119 9th Avenue, New York, NY 10011).

The second scoping meeting will be an online scoping meeting and will begin at 4 p.m. EST on Monday, February 5, 2024. The meeting will be held via Zoom (Zoom information will be shared on the project website at least 10 days prior to the meeting; accessible at *https://www.nyc.gov/site/nycha/about/pact/Chelsea-Fulton.page).* Each meeting will have simultaneous Spanish, Mandarin, Cantonese, Russian and American Sign Language interpretation. Individuals who require additional special assistance, such as interpretation, captioning, or signing services to participate in the scoping meetings, should make the request by emailing *nepa_env@hpd.nyc.gov.*

The third scoping meeting will begin at 6:30 p.m. EST on Wednesday, February 7, 2024 and will be held at the Hudson Guild John Lovejoy Elliott Community Center on the Elliott-Chelsea Campus (428 West 26th Street, New York, NY 10001).

The date of all public scoping meetings also will be announced at least 15 days in advance of the meetings through a notice to be published in local newspapers and online on the Proposed Action's website at *https://www.nyc.gov/site/nycha/about/pact/Chelsea-Fulton.page.*

Marion McFadden,

Principal Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 2024–00090 Filed 1–5–24; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7077–N–23]

Privacy Act of 1974; System of Records

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice of a rescindment of a system of records.

SUMMARY: The Department of the Housing and Urban Development (HUD) is issuing a public notice of its intent to rescind Integrated Disbursement Information System (IDIS). During a routine review of the Office of Community Planning and Development (CPD) system of records notices, it was determined that this system does not retrieve information by name or another unique identifier.

DATES: Comments will be accepted on or before February 7, 2024. This proposed action will be effective immediately upon publication.

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

Federal e-Rulemaking Portal: https://www.regulations.gov. Follow the instructions provided on that site to submit comments electronically.

Fax: 202–619–8365.

Email: privacy@hud.gov.

Mail: Attention: Privacy Office; LaDonne White, Chief Privacy Officer; The Executive Secretariat; 451 Seventh Street SW, Room 10139, Washington, DC 20410–0001.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov* including any personal information provided.

Docket: For access to the docket to read background documents or comments received go to *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: LaDonne White, Chief Privacy Officer, 451 Seventh Street SW, Room 10139, Washington, DC 20410; telephone number (202) 708–3054 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.*

SUPPLEMENTARY INFORMATION: The Integrated Disbursement Information System does not require a SORN given that information collected on U.S. residents is not retrieved by name or another unique identifier, but by grantee organization name.''

SYSTEM NAME AND NUMBER:

HUD/H–8: Integrated Disbursement & Information System (IDIS).

HISTORY:

The previously published notice in the **Federal Register** [Docket Number FR–5478–N–02], on April 11, 2011, at 76 FR 20003.

Ladonne L. White,

Chief Privacy Officer, Office of Administration.

[FR Doc. 2024–00117 Filed 1–5–24; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7092–N–01]

Privacy Act of 1974; System of Records

AGENCY: Office of Public and Indian Housing, HUD.

ACTION: Notice of a rescindment of a system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended, the Department of the Housing and Urban Development (HUD), Office of Public and Indian Housing, Office of Public Housing and Voucher Programs, is issuing a public notice of its intent to rescind the Effort-to-Outcomes (ETO) because the requirement for the Disaster

Housing Assistance Program (DHAP) has ended.

DATES: This proposed action will be effective immediately upon publication. January 8, 2024.

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

Federal e-Rulemaking Portal: http://www.regulations.gov. Follow the instructions provided on that site to submit comments electronically.

Fax: 202–619–8365.

Email: privacy@hud.gov.

Mail: Attention: Privacy Office; LaDonne White, Chief Privacy Officer; The Executive Secretariat; 451 Seventh Street SW, Room 10139; Washington, DC 20410–0001.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov* including any personal information provided.

Docket: For access to the docket to read background documents or comments received go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: LaDonne White, Chief Privacy Officer, 451 Seventh Street SW, Room 10139; Washington, DC 20410; telephone number (202) 708–3054 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.*

SUPPLEMENTARY INFORMATION: The Efforts-to-Outcomes (ETO) is being terminated because the ETO system was designed to contain information for a specific population (FEMA eligible referrals) for a specific use and amount of time (DHAP eligible families who worked towards self-sufficiency until program end). ETO system was used for program implementation activities related to the Disaster Housing Assistance Program (DHAP) case management services. DHAP is a Federal Emergency Management Agency (FEMA) pilot grant program to provide temporary rental subsidies and case management for non-HUD assisted individuals and families displaced by Hurricanes Gustav or Ike. HUD is the servicing agency that administers the DHAP program for FEMA. The program ended in 2011 and once over, none of the records would continue to be active because the information would not be eligible for existing HUD or FEMA programs and as such would no longer be needed. Records are no longer maintained by HUD and have run the record retention period and wiped from the system.

SYSTEM NAME AND NUMBER:

Effort to Outcomes (ETO).

HISTORY:

The previously published notice in the **Federal Register** [Docket Number FR–5386–N–15], on December 29, 2010, at 75 FR 82053.

Ladonne White,

Chief Privacy Officer, Office of Administration.

[FR Doc. 2024–00157 Filed 1–5–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R3–ES–2023–N099; FXES11130300000–234–FF03E00000]

Endangered and Threatened Species; Receipt of Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received applications for permits to conduct activities intended to enhance the propagation or survival of endangered or threatened species under the Endangered Species Act. We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

DATES: We must receive your written comments on or before February 7, 2024.

ADDRESSES: *Document availability and comment submission:* Submit requests for copies of the applications and related documents, as well as any comments, by one of the following methods. All requests and comments should specify the applicant name(s) and application number(s) (*e.g.,* ESXXXXXX; see table in **SUPPLEMENTARY INFORMATION**):

- *Email (preferred method): permitsR3ES@fws.gov.* Please refer to the respective application number (*e.g.,* Application No. ESXXXXXX) in the subject line of your email message.
- *U.S. Mail:* Regional Director, Attn: Nathan Rathbun, U.S. Fish and Wildlife Service, Ecological Services, 5600 American Blvd. West, Suite 990, Bloomington, MN 55437–1458.

FOR FURTHER INFORMATION CONTACT: Nathan Rathbun, 612–713–5343 (phone); *permitsR3ES@fws.gov* (email). Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service, invite review and comment from the public and local, State, Tribal, and Federal agencies on applications we have received for permits to conduct certain activities with endangered and threatened species under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and our regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17. Documents and other information submitted with the applications are available for review, subject to the requirements of the Privacy Act and the Freedom of Information Act.

Background

The ESA prohibits certain activities with endangered and threatened species unless authorized by a Federal permit. The ESA and our implementing regulations in part 17 of title 50 of the Code of Federal Regulations (CFR) provide for the issuance of such permits and require that we invite public comment before issuing permits for activities involving endangered species.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with endangered species for scientific purposes that promote recovery or for enhancement of propagation or survival of the species. Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Permit Applications Available for Review and Comment

The ESA requires that we invite public comment before issuing these

permits. Accordingly, we invite local, State, Tribal, and Federal agencies and the public to submit written data, views, or arguments with respect to these applications. The comments and recommendations that will be most useful and likely to influence agency decisions are those supported by quantitative information or studies. Proposed activities in the following permit requests are for the recovery and enhancement of propagation or survival of the species in the wild.

Application No.	Applicant	Species	Location	Activity	Type of take	Permit action
PER0003405	Crystal Griffin, Overland Park, KS.	Add new species—tricolored bat (*Perimyotis subflavus*)—to existing authorized species: Indiana bat (*Myotis sodalis*), northern long-eared bat (*M. septentrionalis*), gray bat (*M. grisescens*), and Ozark big-eared bat (*Corynorhinus townsendii ingens*).	AL, AR, CT, DE, GA, IA, IL, IN, KS, KY, MA, MD, MI, MN, MS, MO, NC, ND, NE, NH, NJ, NY, OH, OK, PA, RI, SC, SD, TN, VA, VT, WI, WV.	Conduct presence/absence surveys, document habitat use, conduct population monitoring, and evaluate impacts.	Capture with mist nets or harp traps, identify, handle, collect non-intrusive measurements, band, radio-tag, and release.	Amend.
PER0037956	Cory Murphy, Granger, IN.	Add new species—tricolored bat (*Perimyotis subflavus*)—to existing authorized species: Indiana bat (*Myotis sodalis*), northern long-eared bat (*M. septentrionalis*), and gray bat (*M. grisescens*).	AL, AR, CO, CT, DC, DE, GA, FL, IA, IL, IN, KS, KY, LA, MA, MD, MI, MN, MS, MO, NC, ND, NE, NH, NJ, NM, NY, OH, OK, PA, RI, SC, SD, TN, TX, VA, VT, WI, WV, WY.	Conduct presence/absence surveys, document habitat use, conduct population monitoring, and evaluate impacts.	Capture with mist nets or harp traps, identify, handle, collect non-intrusive measurements, band, radio-tag, wing biopsy samples, hair samples, swab samples, and release.	Amend.
PER5166267	Jordan Myers, Columbus, OH.	Pink mucket (*Lampsilis orbiculata orbiculata*), rayed bean (*Villosa fabalis*), rabbitsfoot (*Quadrula cylindrica cylindrica*), clubshell (*Pleurobema clava*), fanshell (*Cyprogenia stegaria*), long solid (*Fusconaia subrotunda*), northern riffleshell (*Epioblasma rangiana*), round hickorynut (*Obovaria subrotunda*), sheepnose mussel (*Plethobasus cyphyus*), snuffbox mussel (*Epioblasma triquetra*), white catspaw (*Epioblasma perobliqua*), purple catspaw (*Epioblasma obliquata*).	OH	Conduct presence/absence surveys, document habitat use, conduct population monitoring, and evaluate impacts.	Capture, handle, release, and relocate under special circumstances.	New.
PER1896698	Caleb Knerr, Jefferson City, MO.	Add new species—western fanshell (*Cyprogenia aberti*) and pink mucket (*Lampsilis abrupta*)—to existing authorized species: rabbitsfoot (*Quadrula cylindrica cylindrica*), snuffbox (*Epioblasma triquetra*), and spectaclecase (*Cumberlandia monodonta*).	MO	Conduct presence/absence surveys, document habitat use, conduct population monitoring, and evaluate impacts.	Capture, handle, release, and relocate under special circumstances.	Amend.
ES809630	Allen Kurta, Ypsilanti, MI.	Add new species—tricolored bat (*Perimyotis subflavus*)—to existing authorized species: Indiana bat (*Myotis sodalis*) and northern long-eared bat (*Myotis septentrionalis*).	IL, IN, MI, OH	Conduct presence/absence surveys, document habitat use, conduct population monitoring, and evaluate impacts.	Capture with mist nets or harp traps, identify, handle, collect non-intrusive measurements, band, radio-tag, and release.	Renew and amend.

Public Availability of Comments

Written comments we receive become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Moreover, all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Next Steps

If we decide to issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**.

Authority

We publish this notice under section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Lori Nordstrom,

Assistant Regional Director, Ecological Service, Midwest Region.

[FR Doc. 2024–00159 Filed 1–5–24; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–ES–2020–N100; FXES111609C0000–245–FF09E41000; OMB Control Number 1018–0094]

Agency Information Collection Activities; Federal Fish and Wildlife Permit Applications and Reports—Native Endangered and Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing to renew an information collection without change.

DATES: Interested persons are invited to submit comments on or before February 7, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be submitted within 30 days of publication of this notice at *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: PRB (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info_Coll@fws.gov.* Please reference OMB Control Number 1018–0094 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Madonna Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503. Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance. You may also view the information collection request (ICR) at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

On February 9, 2023, we published in the **Federal Register** (88 FR 8380) a proposed rule (RIN 1018–BF99) containing a notice of our intent to request that OMB approve the existing and new information collections contained in that rulemaking. We solicited comments for 60 days, ending on April 10, 2023. We received one comment addressing the information collection requirements contained in that proposed rule, which will be addressed in the submission to OMB associated with the final rule. The Service plans to publish the associated final rule, which will request OMB approval of the new information collections, in the spring of 2024. However, due to this collection expiring before the anticipated publication of that final rule, we are now requesting that OMB approve an extension, without change, to this collection, to this collection to extend the current expiration date.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed information collection request (ICR) that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*) provides a means to conserve the ecosystems upon which endangered and threatened species depend, to provide a program for the conservation of these endangered and threatened species, and to take the appropriate steps that are necessary to bring any endangered or threatened species to the point where measures provided for under the ESA are no longer necessary. Section 10(a)(1)(A) of the ESA authorizes us to issue permits for otherwise prohibited activities in order to enhance the propagation or survival of the affected species. Section 10(a)(1)(B) of the ESA authorizes us to issue permits if the taking is incidental to the carrying out of an otherwise lawful activity. ESA section 10(d) requires that such permits be applied for in good faith and, if granted, that the

permit not operate to the disadvantage of endangered species, and that the permit be consistent with the purposes of the ESA.

Our regulations implementing the ESA are in chapter I, subchapter B of title 50 of the Code of Federal Regulations (CFR) (50 CFR 13 and 50 CFR 17). The regulations stipulate general and specific requirements that, when met, allow us to issue permits to authorize activities that are otherwise prohibited. Upon receipt of a complete application, the Director may issue a permit authorizing any activity otherwise prohibited by § 17.21, in accordance with the issuance criteria of this section, for scientific purposes, for enhancing the propagation or survival, or for the incidental taking of endangered wildlife. Such permits may authorize a single transaction, a series of transactions, or a number of activities over a specific period of time. (See § 17.32 for permits for threatened species.)

We collect information associated with application forms to determine the eligibility of applicants for permits requested in accordance with the criteria in section 10 of the ESA. The Service uses the following permit application forms for activities associated with native endangered and threatened species:

- Form 3–200–54, *Enhancement of Survival Permits Associated with Safe Harbor Agreement and Candidate Conservation Agreement with Assurances;*
- Form 3–200–56, *Incidental Take Permits Associated with a Habitat Conservation Plan (HCP);*
- Form 3–200–59, *Scientific, Enhancement of Propagation, or Survival (i.e., Purposeful Take for Recovery);* and
- Form 3–200–60, *Interstate Commerce.*

Annual reporting of the results subsequent to the activity authorized by the permit is required in most cases (under the authority of section 10(a)(1)(A) and 10(a)(1)(B) of the ESA and its implementing regulations at 50 CFR 17). These reports allow us to evaluate the success of the project, formulate further research, and develop and adjust management and recovery plans for the species. We currently use the following reports specific to particular species (and regions, where appropriate):

- Form 3–202–55a, *U.S. Fish and Wildlife Service Geographic Area: Southwestern Bat Reporting Form;*
- Form 3–202–55b, *U.S. Fish and Wildlife Service Geographic Area: Midwestern Bat Reporting Form;*
- Form 3–202–55c, *U.S. Fish and Wildlife Service Geographic Area: Southeastern Bat Reporting Form;*
- Form 3–202–55d, *U.S. Fish and Wildlife Service Geographic Area: Northeastern Bat Reporting Form;* and
- Form 3–202–55e, *U.S. Fish and Wildlife Service Geographic Area: Plains/Rockies Bat Reporting Form.*
- Form 3–202–55f, *Non-Releasable Sea Turtle Annual Report;* and
- Form 3–202–55g, *Sea Turtle Rehabilitation Annual Report.*
- Form 3–2523, *Midwest Geographic Area: Freshwater Mussel Reporting Form;*
- Form 3–2526, *Midwest Geographic Area: Bumble Bee Reporting Form;*
- Form 3–2530, *California/Nevada/ Klamath Basin, OR Recovery Permit Annual Summary Report Form;*
- Form 3–2532, *U.S. Fish and Wildlife Service Geographic Area: Alaska Bat Reporting Form;*
- Form 3–2533, *U.S. Fish and Wildlife Service Geographic Area: Northwestern Bat Reporting Form;* and
- Form 3–2534, *U.S. Fish and Wildlife Service Geographic Area: Western Bat Reporting Form.*

Annual reporting of the results subsequent to the activity authorized by the permit is required in most cases (under the authority of section 10(a)(1)(A) and section 10(a)(1)(B) of the ESA and its implementing regulations at 50 CFR 17). The Service designed the forms to facilitate the electronic reporting specifically for each species. The Service will use the reported data to evaluate the success of the permitted project, formulate further research, and develop and adjust management and recovery plans for the species. The data will also inform 5-year reviews and species status assessments conducted under the ESA.

Additionally, we require that the following notifications be made to the Service:

- Private landowners who have an enhancement of survival permit (and accompanying safe harbor agreement or candidate conservation agreement with assurances) must notify us if their land management activities incidentally take a listed or candidate species covered under their permit.
- We issue enhancement of survival permits to landowners, and their name is printed on the permit. If ownership of the land changes, this permit does not automatically transfer to the new landowner. Therefore, we ask the permittee to notify us if there is a change in land ownership so that we may update the permit; and
- If a recovery or interstate commerce permit authorizes activities that include keeping wildlife in captivity, we ask the permittee to notify us if any of the captive wildlife escape.

Title of Collection: Federal Fish and Wildlife Permit Applications and Reports—Native Endangered and Threatened Species; 50 CFR 10, 13, and 17.

OMB Control Number: 1018–0094.

Form Numbers: FWS Forms 3–200–54, 3–200–56, 3–200–59, 3–200–60, 3–202–55a through 3–202–55g, 3–2523, 3–2526, 3–2530, and 3–2532 through 3–2534 (new).

Type of Review: Extension of a currently approved collection.

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

Total Estimated Number of Annual Respondents: 4,258.

Total Estimated Number of Annual Responses: 4,258.

Estimated Completion Time per Response: Varies from 30 minutes to 2,080 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 119,949.

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion, annually, one time.

Total Estimated Annual Nonhour Burden Cost: $54,910 for fees associated with permit applications and amendments.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2024–00068 Filed 1–5–24; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R8–ES–2023–0251; FXES11140800000–245–FF08ECAR00]

Receipt of Incidental Take Permit Application and Proposed Habitat Conservation Plan for Montebello Hills Phase B Project, City of Montebello, CA; Categorical Exclusion

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the Fish and Wildlife Service (Service), announce receipt of

an application from Metro Heights Montebello, LLC (applicant) for an incidental take permit (ITP) under the Endangered Species Act. The applicant requests the ITP to take the federally threatened coastal California gnatcatcher and endangered least Bell's vireo incidental to construction of the Montebello Hills Phase B Project, in the City of Montebello, Los Angeles County, California. We request public comment on the application, which includes the applicant's proposed habitat conservation plan (HCP), and the Service's preliminary determination that the proposed permitting action may be eligible for a categorical exclusion pursuant to the Council on Environmental Quality's National Environmental Policy Act (NEPA) regulations, the Department of the Interior's (DOI) NEPA regulations, and the DOI Departmental Manual. To make this preliminary determination, we prepared a draft environmental action statement and low-effect screening form, both of which are also available for public review. We invite comment from the public and local, State, Tribal, and Federal agencies.

DATES: We must receive your written comments on or before February 7, 2024.

ADDRESSES:

Obtaining Documents: You may obtain copies of the documents this notice announces, along with any comments and other materials that we receive, online in Docket No. FWS–R8–ES–2023–0251 at *https://www.regulations.gov.*

Submitting Comments: If you wish to submit comments, you may do so in writing by one of the following methods:

- *Online: https://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–R8–ES–2023–0251.
- *U.S. Mail:* Public Comments Processing, Attn: Docket No. FWS–R8–ES–2023–0251; U.S. Fish and Wildlife Service, MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.:

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan Snyder, Assistant Field Supervisor, Carlsbad Fish and Wildlife Office, 760–431–9440 (telephone). Individuals in the United States who are deaf, blind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), have received an application from Metro Heights Montebello, LLC (applicant) for an 11-year incidental take permit (ITP) for two covered species pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The application addresses the potential ''take'' of the threatened coastal California gnatcatcher (*Polioptila californica californica*) and the endangered least Bell's vireo (*Vireo bellii pusillus*) associated with the construction of the Montebello Hills Phase B Project, in the City of Montebello, Los Angeles County, California. We request public comment on the application, which includes the applicant's habitat conservation plan (HCP), and on the Service's preliminary determination that this proposed ITP qualifies as ''low effect,'' and may qualify for a categorical exclusion pursuant to the Council on Environmental Quality's National Environmental Policy Act (NEPA) regulations (40 CFR 1501.4), the Department of the Interior's (DOI) NEPA regulations (43 CFR 46), and the DOI's Departmental Manual (516 DM 8.5(C)(2)). To make this preliminary determination, we prepared a draft environmental action statement and low-effect screening form, both of which are also available for public review.

Background

The proposed project is the second part of the larger 488-acre Montebello Hills Development and Conservation Project (also known as Montebello Hills Specific Plan). The Service consulted with the U.S. Army Corps of Engineers under section 7 of the Endangered Species Act on the effects to the coastal California gnatcatcher from the proposed issuance of a Clean Water Act section 404 permit for the Montebello Hills Development and Conservation Project in 2009 and in 2019. Ultimately, U.S. Army Corps of Engineers did not issue a 404 permit, because they determined that waters within the Montebello Hills Development and Conservation Project area are excluded from Clean Water Act jurisdiction. Phase A of the Montebello Hills Development and Conservation Project was initiated in 2019 and is currently under construction.

Proposed Project

The proposed project includes the construction of 851 residential homes, a park, and fuel modification zones on 86.78 acres in the City of Montebello, California. The applicant requests an 11-year ITP under section 10(a)(1)(B) of the ESA. If we approve the permit, the applicant anticipates taking coastal California gnatcatcher and least Bell's vireo as a result of impacts to 86.78 acres, including about 32 acres of native coastal sage scrub vegetation these species use for breeding, feeding, and sheltering. The take would be incidental to the applicant's activities associated with the construction of the Montebello Hills Phase B Project.

Coastal California gnatcatchers are common in coastal sage scrub vegetation within the Montebello Hills, with a maximum of 160 pairs recorded in 2012. The proposed project area contained 7 pairs prior to initiation of the Phase A of the Montebello Hills Development and Conservation Project in 2019 and 3 pairs in 2023. Least Bell's vireos are common in riparian woodlands near the proposed project area within Whittier Narrows Recreation Area, but were first observed within the project area in May of 2023. Riparian vegetation, suitable for vireo, occurs in small patches within the coastal sage scrub vegetation community.

The applicant's proposed HCP contains measures to minimize the effects of construction activities on the coastal California gnatcatcher and least Bell's vireo. During construction, a Service-approved biological monitor will be present to ensure avoidance and minimization measures are understood by the contractors and implemented as anticipated. Impacts to preserved vegetation adjacent to the Project footprint will be avoided by surveying, staking, and fencing the limits of proposed impacts and controlling erosion, sedimentation, and pollution within the footprint of impacts. Vegetation removal will occur outside the breeding season to avoid active nests, and impacts to productivity will be minimized by limiting construction within 200 feet of an active nest.

The applicant proposes to increase the quality and extent of habitat for the gnatcatcher and vireo that occurs within and adjacent to the project area by (1) restoring, preserving, and managing 91.51 acres of native vegetation communities within the 276.83-acre Montebello Hills Habitat Reserve (Habitat Reserve), and (2) restoring, preserving, and managing 12 acres of native vegetation communities in the Puente Hills. In total, 100.11 acres of coastal sage scrub habitat for coastal California gnatcatcher and 3.4 acres riparian woodland habitat for least Bell's vireo will be protected in perpetuity with conservation easements and managed in accordance with long-term management plans, with funding secured in non-wasting endowment

accounts to ensure the quality and extent of restored habitats are maintained over time.

Because the Habitat Reserve will be surrounded by residential development, the proposed project also includes several design features to minimize the potential for degradation of habitat that is preserved as part of the project. The fuel modification zone was minimized by incorporating fire-resistant features into the project design and will be planted with coastal sage scrub species approved for use by the local fire authority to maintain foraging habitat for coastal California gnatcatchers. Development landscaping will exclude invasive plant species and incorporate primarily drought-tolerant plants to minimize artificial irrigation. Lighting will be shielded and designed to minimize spillover into the Montebello Habitat Reserve. Fencing will prohibit access to the Habitat Reserve by homeowners and their pets, and no-trespassing signs will be posted at likely points of entry.

Proposed Action and Alternatives

The proposed action consists of the issuance of an incidental take permit and implementation of the proposed HCP, which includes measures to avoid, minimize, and mitigate impacts to coastal California gnatcatcher and least Bell's vireo. To comply with the requirements for an HCP under ESA section 10(a), alternatives to the project and the incidental take of coastal California gnatcatcher and least Bell's vireo were evaluated. Under the No Action Alternative, the project would not be constructed, and no ITP would be issued. The No Action Alternative would not meet the primary goal of the proposed project, which is to construct residential homes within the project area. It would also represent a loss of the value of the infrastructure (roadways, utilities, and storm water facilities) previously constructed to facilitate development of Phase B, including revegetation of 41.85 acres of coastal sage scrub on slopes as part of the Phase A development. Alternatives to the proposed project are constrained by the Phase A development and would necessitate extensive changes to the developed subdivisions in Phase A from a land use, circulation, and utility perspective. There are no other feasible alternatives, based on the description of already installed improvements that would avoid incidental take of coastal California gnatcatcher and least Bell's vireo.

Our Preliminary Determination

The Service has made a preliminary determination that the applicant's proposed project would individually and cumulatively have a minor effect on the coastal California gnatcatcher, least Bell's vireo, and the human environment. Therefore, we have preliminarily determined that the proposed ESA section 10(a)(1)(B) ITP would be a ''low-effect'' ITP that individually or cumulatively would have a minor effect on the species and may qualify for application of a categorical exclusion pursuant to the Council on Environmental Quality's NEPA regulations, DOI's NEPA regulations, and the DOI Departmental Manual. A ''low-effect'' ITP is one that would result in (1) minor or nonsignificant effects on species covered in the HCP; (2) nonsignificant effects on the human environment; and (3) impacts that, when added together with the impacts of other past, present, and reasonable foreseeable actions, would not result in significant cumulative effects to the human environment.

Next Steps

The Service will evaluate the application and the comments received to determine whether to issue the requested ITP. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the preceding and other matters, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue the permit to the applicant for incidental take of coastal California gnatcatcher and least Bell's vireo.

Public Availability of Comments

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.

Authority

We provide this notice under section 10 of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22 and 17.32) and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1500–1508 and 43 CFR 46).

Kristine Petersen,

Deputy Field Supervisor, Carlsbad Fish and Wildlife Office, Carlsbad, California.

[FR Doc. 2024–00163 Filed 1–5–24; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R5–ES–2023–N082; FXES11130500000–201–FF05E00000]

Endangered and Threatened Wildlife and Plants; Initiation of 5-Year Reviews of Five Northeastern Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of initiation of reviews; request for information.

SUMMARY: We, the U.S. Fish and Wildlife Service, are initiating 5-year reviews under the Endangered Species Act, as amended, for five northeastern species. A 5-year review is based on the best scientific and commercial data available at the time of the review. We are requesting submission of any such information that has become available since the previous 5-year review for each species.

DATES: To ensure consideration, please submit your written information by February 7, 2024. However, we will continue to accept new information about any listed species at any time.

ADDRESSES: For instructions on how and where to submit information, see Request for New Information and Table 2—Contacts under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT:

General Information: Martin Miller, 413–253–8615 (phone), *martin_miller@fws.gov* (email), and via U.S. mail at U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, MA 01035.

Species-Specific Information and Submission of Comments: Contact the appropriate person or office listed in Table 2—Contacts in **SUPPLEMENTARY INFORMATION**.

Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), are initiating 5-year reviews under the Endangered Species Act, as amended (ESA; 16 U.S.C. 1531 *et seq.*), for five northeastern species: the endangered clubshell (*Pleurobema clava*) and northern riffleshell (*Epioblasma rangiana*) and threatened Chittenango ovate amber snail (*Novisuccinea chittenangoensis*), Knieskern's beaked-rush (*Rhynchospora knieskernii*), and Puritan tiger beetle (*Ellipsoptera puritana*).

A 5-year review is based on the best scientific and commercial data available at the time of the review. We are requesting submission of any such information that has become available since the most recent status review for each species.

Why do we conduct 5-year reviews and species status assessments?

Under the ESA, we maintain Lists of Endangered and Threatened Wildlife and Plants (which we collectively refer to as the List) in title 50 of the Code of Federal Regulations at 50 CFR 17.11(h) (for wildlife) and 50 CFR 17.12(h) (for plants). Listed wildlife and plants can also be found at *https://ecos.fws.gov/tess_public/pub/listedAnimals.jsp* and *https://ecos.fws.gov/tess_public/pub/listedPlants.jsp,* respectively. Section 4(c)(2)(A) of the ESA requires us to review each listed species' status at least once every 5 years. Our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing species under active review. For additional information about 5-year reviews, refer to our fact sheet at *https://www.fws.gov/endangered/what-we-do/recovery-overview.html.*

What species are under review?

We are initiating 5-year status reviews of the species in table 1.

TABLE 1—SPECIES UNDER REVIEW

Common name	Scientific name	Status	Where listed	Listing date and citation
Clubshell	*Pleurobema clava*	Endangered	Wherever found	1/22/1993, 58 FR 5638.
Northern riffleshell	*Epioblasma rangiana*	Endangered	Wherever found	1/22/1993, 58 FR 5638.
Chittenango ovate amber snail	*Novisuccinea chittenangoensis*	Threatened	Wherever found	7/3/1978, 43 FR 28932.
Knieskern's beaked-rush	*Rhynchospora knieskernii*	Threatened	Wherever found	7/18/1991, 56 FR 32978.
Puritan tiger beetle	*Ellipsoptera puritana*	Threatened	Wherever found	8/7/1990, 55 FR 32088.

What information do we consider in our 5-year reviews and species status assessments?

A 5-year review considers all new information available at the time of the review. In conducting the review, we consider the best scientific and commercial data that have become available since the most recent status review. We are seeking new information specifically regarding:

(1) Species biology, including but not limited to life-history and habitat requirements and impact tolerance thresholds;

(2) Historical and current population conditions, including but not limited to population abundance, trends, distribution, demographics, and genetics;

(3) Historical and current habitat conditions, including but not limited to amount, distribution, and suitability;

(4) Historical and current threats, threat trends, and threat projections in relation to the five listing factors (as defined in section 4(a)(1) of the ESA);

(5) Conservation measures for the species that have been implemented or are planned; and

(6) Other new information, data, or corrections, including but not limited to taxonomic or nomenclatural changes, identification of erroneous information contained in the List, and improved analytical methods.

Any new information received will be considered during the 5-year review and will also be useful in evaluating ongoing recovery programs for the species.

Request for New Information

To ensure that 5-year reviews are based on the best available scientific and commercial information, we request new information from all sources. If you submit information, please support it with documentation such as maps, bibliographic references, methods used to gather and analyze the data, and/or copies of any pertinent publications, reports, or letters by knowledgeable sources.

How do I ask questions or provide information?

Please submit your questions, comments, and materials to the appropriate contact in table 2, below.

Public Availability of Comments

Before including your address, phone number, electronic mail address, or other personal identifying information in your submission, you should be aware that your entire submission—including your personal identifying information—may be made publicly available at any time. Although you can request that personal information be withheld from public review, we cannot guarantee that we will be able to do so.

Contacts

New information on the species covered in this notice should be submitted by mail or electronic mail to the appropriate contact shown in table 2, by the deadline provided above in **DATES**.

TABLE 2—CONTACTS

Species	Contact person, email, phone	Contact address
Clubshell	Robert Anderson, *robert_m_anderson@fws.gov*, 814–206–7447.	U.S. Fish and Wildlife Service, Pennsylvania Field Office, 110 Radnor Road, Suite 101, State College, PA 16801–7987.
Northern riffleshell	Robert Anderson, *robert_m_anderson@fws.gov*, 814–206–7447.	U.S. Fish and Wildlife Service, Pennsylvania Field Office, 110 Radnor Road, Suite 101, State College, PA 16801–7987.
Chittenango ovate amber snail	John Wiley, *john_wiley@fws.gov*, 607–753–9334.	U.S. Fish and Wildlife Service, New York Field Office, 3817 Luker Road, Cortland, NY 13045–9385.
Knieskern's beaked-rush	Rebecca Klee, *rebecca_klee@fws.gov*, 609–382–5265.	U.S. Fish and Wildlife Service, New Jersey Field Office, 4 E Jimmie Leeds Road, Suite 4, Galloway, NJ 08205.

TABLE 2—CONTACTS—Continued

Species	Contact person, email, phone	Contact address
Puritan tiger beetle	Kathleen Cullen, *kathleen_cullen@fws.gov*, 410–573–4579.	U.S. Fish and Wildlife Service, Chesapeake Bay Field Office, 177 Admiral Cochrane Drive, Annapolis, MD 21401–7307.

Authority

We publish this document under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Wendi Weber,

Regional Director, Northeast Region.

[FR Doc. 2024–00076 Filed 1–5–24; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[245A2100DD/AAKC001030/ A0A501010.999900]

Indian Gaming; Extension of Tribal-State Class III Gaming Compacts in California

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice announces the extension of the Class III gaming compacts between two Tribes in California and the State of California.

DATES: The extension takes effect on January 8, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Assistant Secretary—Indian Affairs, Washington, DC 20240, *IndianGaming@bia.gov;* (202) 219–4066.

SUPPLEMENTARY INFORMATION: An extension to an existing Tribal-State Class III gaming compact does not require approval by the Secretary if the extension does not modify any other terms of the compact. 25 CFR 293.5. The following Tribes and the State of California have reached an agreement to extend the expiration date of their existing Tribal-State Class III gaming compacts to December 31, 2024: the Bishop Paiute Tribe; and the Pit River Tribe, California. This publication provides notice of the new expiration date of the compacts.

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2024–00107 Filed 1–5–24; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[245A2100DD/AAKC001030/ A0A501010.999900]

Indian Entities Recognized by and Eligible To Receive Services From the United States Bureau of Indian Affairs

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the current list of 574 Tribal entities recognized by and eligible for funding and services from the Bureau of Indian Affairs (BIA) by virtue of their status as Indian Tribes.

DATES: The list is updated from the notice published on August 11, 2023 (88 FR 54654).

FOR FURTHER INFORMATION CONTACT: Ms. Genevieve Giaccardo, Bureau of Indian Affairs, Deputy Director, Office of Indian Services, Mail Stop 3645–MIB, 1849 C Street NW, Washington, DC 20240. Telephone number: (202) 513–7641.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to section 104 of the Federally Recognized Indian Tribe List Act of November 2, 1994 (Pub. L. 103–454; 108 Stat. 4791, 4792), in accordance with section 83.6(a) of part 83 of title 25 of the Code of Federal Regulations, and in exercise of authority delegated to the Assistant Secretary—Indian Affairs under 25 U.S.C. 2 and 9 and 209 DM 8. Published below is an updated list of federally recognized Indian Tribes within the contiguous 48 states and Alaska. Amendments to the list include formatting edits and name changes.

To aid in identifying Tribal name changes, Tribes' previously listed, former names, or also known as (aka) names are included in parentheses after the correct current Tribal name. The BIA will continue to list the Tribe's former or previously listed name for several years before dropping the former or previously listed name from the list.

The listed Indian entities are recognized to have the immunities and privileges available to federally recognized Indian Tribes by virtue of their Government-to-Government relationship with the United States as well as the responsibilities, powers, limitations, and obligations of such Indian Tribes. The BIA has continued the practice of listing the Alaska Native entities separately for the purpose of facilitating identification of them.

Bryan Newland,

Assistant Secretary—Indian Affairs.

Indian Tribal Entities Within the Contiguous 48 States Recognized by and Eligible To Receive Services From the United States Bureau of Indian Affairs

Absentee-Shawnee Tribe of Indians of Oklahoma
Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation, California
Ak-Chin Indian Community
Alabama-Coushatta Tribe of Texas
Alabama-Quassarte Tribal Town
Alturas Indian Rancheria, California
Apache Tribe of Oklahoma
Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana
Augustine Band of Cahuilla Indians, California
Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin
Bay Mills Indian Community, Michigan
Bear River Band of the Rohnerville Rancheria, California
Berry Creek Rancheria of Maidu Indians of California
Big Lagoon Rancheria, California
Big Pine Paiute Tribe of the Owens Valley
Big Sandy Rancheria of Western Mono Indians of California
Big Valley Band of Pomo Indians of the Big Valley Rancheria, California
Bishop Paiute Tribe
Blackfeet Tribe of the Blackfeet Indian Reservation of Montana
Blue Lake Rancheria, California
Bridgeport Indian Colony
Buena Vista Rancheria of Me-Wuk Indians of California
Burns Paiute Tribe
Cabazon Band of Cahuilla Indians (*previously* listed as Cabazon Band of Mission Indians, California)
Cachil DeHe Band of Wintun Indians of the Colusa Indian Community of the Colusa Rancheria, California
Caddo Nation of Oklahoma
Cahto Tribe of the Laytonville Rancheria
Cahuilla Band of Indians
California Valley Miwok Tribe, California
Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California
Capitan Grande Band of Diegueno Mission Indians of California (Barona Group of

Capitan Grande Band of Mission Indians of the Barona Reservation, California; Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California)
Catawba Indian Nation
Cayuga Nation
Cedarville Rancheria, California
Chemehuevi Indian Tribe of the Chemehuevi Reservation, California
Cher-Ae Heights Indian Community of the Trinidad Rancheria, California
Cherokee Nation
Cheyenne and Arapaho Tribes, Oklahoma
Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota
Chickahominy Indian Tribe
Chickahominy Indian Tribe—Eastern Division
Chicken Ranch Rancheria of Me-Wuk Indians of California
Chippewa Cree Indians of the Rocky Boy's Reservation, Montana
Chitimacha Tribe of Louisiana
Citizen Potawatomi Nation, Oklahoma
Cloverdale Rancheria of Pomo Indians of California
Cocopah Tribe of Arizona
Coeur D'Alene Tribe
Cold Springs Rancheria of Mono Indians of California
Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California
Comanche Nation, Oklahoma
Confederated Salish and Kootenai Tribes of the Flathead Reservation
Confederated Tribes and Bands of the Yakama Nation
Confederated Tribes of Siletz Indians of Oregon
Confederated Tribes of the Chehalis Reservation
Confederated Tribes of the Colville Reservation
Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians
Confederated Tribes of the Goshute Reservation, Nevada and Utah
Confederated Tribes of the Grand Ronde Community of Oregon
Confederated Tribes of the Umatilla Indian Reservation
Confederated Tribes of the Warm Springs Reservation of Oregon
Coquille Indian Tribe
Coushatta Tribe of Louisiana
Cow Creek Band of Umpqua Tribe of Indians
Cowlitz Indian Tribe
Coyote Valley Band of Pomo Indians of California
Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota
Crow Tribe of Montana
Delaware Nation, Oklahoma
Delaware Tribe of Indians
Dry Creek Rancheria Band of Pomo Indians, California
Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada
Eastern Band of Cherokee Indians
Eastern Shawnee Tribe of Oklahoma
Eastern Shoshone Tribe of the Wind River Reservation, Wyoming
Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California
Elk Valley Rancheria, California
Ely Shoshone Tribe of Nevada
Enterprise Rancheria of Maidu Indians of California
Ewiiaapaayp Band of Kumeyaay Indians, California
Federated Indians of Graton Rancheria, California
Flandreau Santee Sioux Tribe of South Dakota
Forest County Potawatomi Community, Wisconsin
Fort Belknap Indian Community of the Fort Belknap Reservation of Montana
Fort Bidwell Indian Community of the Fort Bidwell Reservation of California
Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California
Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon
Fort McDowell Yavapai Nation, Arizona
Fort Mojave Indian Tribe of Arizona, California & Nevada
Fort Sill Apache Tribe of Oklahoma
Gila River Indian Community of the Gila River Indian Reservation, Arizona
Grand Traverse Band of Ottawa and Chippewa Indians, Michigan
Greenville Rancheria
Grindstone Indian Rancheria of Wintun-Wailaki Indians of California
Guidiville Rancheria of California
Habematolel Pomo of Upper Lake, California
Hannahville Indian Community, Michigan
Havasupai Tribe of the Havasupai Reservation, Arizona
Ho-Chunk Nation of Wisconsin
Hoh Indian Tribe
Hoopa Valley Tribe, California
Hopi Tribe of Arizona
Hopland Band of Pomo Indians, California
Houlton Band of Maliseet Indians
Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona
Iipay Nation of Santa Ysabel, California
Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California
Ione Band of Miwok Indians of California
Iowa Tribe of Kansas and Nebraska
Iowa Tribe of Oklahoma
Jackson Band of Miwuk Indians
Jamestown S'Klallam Tribe
Jamul Indian Village of California
Jena Band of Choctaw Indians
Jicarilla Apache Nation, New Mexico
Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona
Kalispel Indian Community of the Kalispel Reservation
Karuk Tribe
Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California
Kaw Nation, Oklahoma
Keweenaw Bay Indian Community, Michigan
Kialegee Tribal Town
Kickapoo Traditional Tribe of Texas
Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas
Kickapoo Tribe of Oklahoma
Kiowa Indian Tribe of Oklahoma
Klamath Tribes
Kletsel Dehe Wintun Nation of the Cortina Rancheria (*previously* listed as Kletsel Dehe Band of Wintun Indians)
Koi Nation of Northern California
Kootenai Tribe of Idaho
La Jolla Band of Luiseno Indians, California
La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California
Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin
Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin
Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan
Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada
Little River Band of Ottawa Indians, Michigan
Little Shell Tribe of Chippewa Indians of Montana
Little Traverse Bay Bands of Odawa Indians, Michigan
Lone Pine Paiute-Shoshone Tribe
Los Coyotes Band of Cahuilla and Cupeno Indians, California
Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada
Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota
Lower Elwha Tribal Community
Lower Sioux Indian Community in the State of Minnesota
Lummi Tribe of the Lummi Reservation
Lytton Rancheria of California
Makah Indian Tribe of the Makah Indian Reservation
Manchester Band of Pomo Indians of the Manchester Rancheria, California
Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California
Mashantucket Pequot Indian Tribe
Mashpee Wampanoag Tribe
Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan
Mechoopda Indian Tribe of Chico Rancheria, California
Menominee Indian Tribe of Wisconsin
Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California
Mescalero Apache Tribe of the Mescalero Reservation, New Mexico
Miami Tribe of Oklahoma
Miccosukee Tribe of Indians
Middletown Rancheria of Pomo Indians of California
Mi'kmaq Nation (*previously* listed as Aroostook Band of Micmacs)
Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band)
Mississippi Band of Choctaw Indians
Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada
Modoc Nation
Mohegan Tribe of Indians of Connecticut
Monacan Indian Nation
Mooretown Rancheria of Maidu Indians of California
Morongo Band of Mission Indians, California
Muckleshoot Indian Tribe
Nansemond Indian Nation
Narragansett Indian Tribe
Navajo Nation, Arizona, New Mexico, & Utah
Nez Perce Tribe

Nisqually Indian Tribe
Nooksack Indian Tribe
Northern Arapaho Tribe of the Wind River Reservation, Wyoming
Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana
Northfork Rancheria of Mono Indians of California
Northwestern Band of the Shoshone Nation
Nottawaseppi Huron Band of the Potawatomi, Michigan
Oglala Sioux Tribe
Ohkay Owingeh, New Mexico
Omaha Tribe of Nebraska
Oneida Indian Nation
Oneida Nation
Onondaga Nation
Otoe-Missouria Tribe of Indians, Oklahoma
Ottawa Tribe of Oklahoma
Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes)
Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada
Pala Band of Mission Indians
Pamunkey Indian Tribe
Pascua Yaqui Tribe of Arizona
Paskenta Band of Nomlaki Indians of California
Passamaquoddy Tribe
Pauma Band of Luiseno Mission Indians of the Pauma & Yuima Reservation, California
Pawnee Nation of Oklahoma
Pechanga Band of Indians (*previously* listed as Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California)
Penobscot Nation
Peoria Tribe of Indians of Oklahoma
Picayune Rancheria of Chukchansi Indians of California
Pinoleville Pomo Nation, California
Pit River Tribe, California (includes XL Ranch, Big Bend, Likely, Lookout, Montgomery Creek, and Roaring Creek Rancherias)
Poarch Band of Creek Indians
Pokagon Band of Potawatomi Indians, Michigan and Indiana
Ponca Tribe of Indians of Oklahoma
Ponca Tribe of Nebraska
Port Gamble S'Klallam Tribe
Potter Valley Tribe, California
Prairie Band Potawatomi Nation
Prairie Island Indian Community in the State of Minnesota
Pueblo of Acoma, New Mexico
Pueblo of Cochiti, New Mexico
Pueblo of Isleta, New Mexico
Pueblo of Jemez, New Mexico
Pueblo of Laguna, New Mexico
Pueblo of Nambe, New Mexico
Pueblo of Picuris, New Mexico
Pueblo of Pojoaque, New Mexico
Pueblo of San Felipe, New Mexico
Pueblo of San Ildefonso, New Mexico
Pueblo of Sandia, New Mexico
Pueblo of Santa Ana, New Mexico
Pueblo of Santa Clara, New Mexico
Pueblo of Taos, New Mexico
Pueblo of Tesuque, New Mexico
Pueblo of Zia, New Mexico
Puyallup Tribe of the Puyallup Reservation
Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada
Quapaw Nation
Quartz Valley Indian Community of the Quartz Valley Reservation of California
Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona
Quileute Tribe of the Quileute Reservation
Quinault Indian Nation
Ramona Band of Cahuilla, California
Rappahannock Tribe, Inc.
Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin
Red Lake Band of Chippewa Indians, Minnesota
Redding Rancheria, California
Redwood Valley or Little River Band of Pomo Indians of the Redwood Valley Rancheria California
Reno-Sparks Indian Colony, Nevada
Resighini Rancheria, California
Rincon Band of Luiseno Mission Indians of Rincon Reservation, California
Robinson Rancheria
Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota
Round Valley Indian Tribes, Round Valley Reservation, California
Sac & Fox Nation of Missouri in Kansas and Nebraska
Sac & Fox Nation, Oklahoma
Sac & Fox Tribe of the Mississippi in Iowa
Saginaw Chippewa Indian Tribe of Michigan
Saint Regis Mohawk Tribe
Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona
Samish Indian Nation
San Carlos Apache Tribe of the San Carlos Reservation, Arizona
San Juan Southern Paiute Tribe of Arizona
San Pasqual Band of Diegueno Mission Indians of California
Santa Rosa Band of Cahuilla Indians, California
Santa Rosa Indian Community of the Santa Rosa Rancheria, California
Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California
Santee Sioux Nation, Nebraska
Santo Domingo Pueblo
Sauk-Suiattle Indian Tribe
Sault Ste. Marie Tribe of Chippewa Indians, Michigan
Scotts Valley Band of Pomo Indians of California
Seminole Tribe of Florida
Seneca Nation of Indians
Seneca-Cayuga Nation
Shakopee Mdewakanton Sioux Community of Minnesota
Shawnee Tribe
Sherwood Valley Rancheria of Pomo Indians of California
Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California
Shinnecock Indian Nation
Shoalwater Bay Indian Tribe of the Shoalwater Bay Indian Reservation
Shoshone-Bannock Tribes of the Fort Hall Reservation
Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada
Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota
Skokomish Indian Tribe
Skull Valley Band of Goshute Indians of Utah
Snoqualmie Indian Tribe
Soboba Band of Luiseno Indians, California
Sokaogon Chippewa Community, Wisconsin
Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado
Spirit Lake Tribe, North Dakota
Spokane Tribe of the Spokane Reservation
Squaxin Island Tribe of the Squaxin Island Reservation
St. Croix Chippewa Indians of Wisconsin
Standing Rock Sioux Tribe of North & South Dakota
Stillaguamish Tribe of Indians of Washington
Stockbridge Munsee Community, Wisconsin
Summit Lake Paiute Tribe of Nevada
Suquamish Indian Tribe of the Port Madison Reservation
Susanville Indian Rancheria, California
Swinomish Indian Tribal Community
Sycuan Band of the Kumeyaay Nation
Table Mountain Rancheria
Tejon Indian Tribe
Te-Moak Tribe of Western Shoshone Indians of Nevada (Four constituent bands: Battle Mountain Band; Elko Band; South Fork Band; and Wells Band)
The Chickasaw Nation
The Choctaw Nation of Oklahoma
The Muscogee (Creek) Nation
The Osage Nation
The Seminole Nation of Oklahoma
Thlopthlocco Tribal Town
Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota
Timbisha Shoshone Tribe
Tohono O'odham Nation of Arizona
Tolowa Dee-ni' Nation
Tonawanda Band of Seneca
Tonkawa Tribe of Indians of Oklahoma
Tonto Apache Tribe of Arizona
Torres Martinez Desert Cahuilla Indians, California
Tulalip Tribes of Washington
Tule River Indian Tribe of the Tule River Reservation, California
Tunica-Biloxi Indian Tribe
Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California
Turtle Mountain Band of Chippewa Indians of North Dakota
Tuscarora Nation
Twenty-Nine Palms Band of Mission Indians of California
United Auburn Indian Community of the Auburn Rancheria of California
United Keetoowah Band of Cherokee Indians in Oklahoma
Upper Mattaponi Tribe
Upper Sioux Community, Minnesota
Upper Skagit Indian Tribe
Ute Indian Tribe of the Uintah & Ouray Reservation, Utah
Ute Mountain Ute Tribe
Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California
Walker River Paiute Tribe of the Walker River Reservation, Nevada
Wampanoag Tribe of Gay Head (Aquinnah)
Washoe Tribe of Nevada & California (Carson Colony, Dresslerville Colony, Woodfords Community, Stewart Community, & Washoe Ranches)
White Mountain Apache Tribe of the Fort Apache Reservation, Arizona
Wichita and Affiliated Tribes (Wichita, Keechi, Waco, & Tawakonie), Oklahoma

Wilton Rancheria, California
Winnebago Tribe of Nebraska
Winnemucca Indian Colony of Nevada
Wiyot Tribe, California
Wyandotte Nation
Yankton Sioux Tribe of South Dakota
Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona
Yavapai-Prescott Indian Tribe
Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada
Yocha Dehe Wintun Nation, California
Yomba Shoshone Tribe of the Yomba Reservation, Nevada
Ysleta del Sur Pueblo
Yuhaaviatam of San Manuel Nation (*previously* listed as San Manuel Band of Mission Indians, California)
Yurok Tribe of the Yurok Reservation, California
Zuni Tribe of the Zuni Reservation, New Mexico

Native Entities Within the State of Alaska Recognized by and Eligible To Receive Services From the United States Bureau of Indian Affairs

Agdaagux Tribe of King Cove
Akiachak Native Community
Akiak Native Community
Alatna Village
Algaaciq Native Village (St. Mary's)
Allakaket Village
Alutiiq Tribe of Old Harbor
Angoon Community Association
Anvik Village
Artic Village (*See* Native Village of Venetie Tribal Government)
Asa'carsarmiut Tribe
Beaver Village
Birch Creek Tribe
Central Council of the Tlingit & Haida Indian Tribes
Chalkyitsik Village
Cheesh-Na Tribe
Chevak Native Village
Chickaloon Native Village
Chignik Bay Tribal Council
Chignik Lake Village
Chilkat Indian Village (Klukwan)
Chilkoot Indian Association (Haines)
Chinik Eskimo Community (Golovin)
Chuloonawick Native Village
Circle Native Community
Craig Tribal Association
Curyung Tribal Council
Douglas Indian Association
Egegik Village
Eklutna Native Village
Emmonak Village
Evansville Village (aka Bettles Field)
Gulkana Village Council
Healy Lake Village
Holy Cross Tribe
Hoonah Indian Association
Hughes Village
Huslia Village
Hydaburg Cooperative Association
Igiugig Village
Inupiat Community of the Arctic Slope
Iqugmiut Traditional Council
Ivanof Bay Tribe
Kaguyak Village
Kaktovik Village (aka Barter Island)
Kasigluk Traditional Elders Council
Kenaitze Indian Tribe
Ketchikan Indian Community
King Island Native Community
King Salmon Tribe
Klawock Cooperative Association
Knik Tribe
Kokhanok Village
Koyukuk Native Village
Levelock Village
Lime Village
Louden Tribe (*previously* listed as Galena Village (aka Louden Village))
Manley Hot Springs Village
Manokotak Village
McGrath Native Village
Mentasta Traditional Council
Metlakatla Indian Community, Annette Island Reserve
Naknek Native Village
Native Village of Afognak
Native Village of Akhiok
Native Village of Akutan
Native Village of Aleknagik
Native Village of Ambler
Native Village of Atka
Native Village of Atqasuk
Native Village of Barrow Inupiat Traditional Government
Native Village of Belkofski
Native Village of Brevig Mission
Native Village of Buckland
Native Village of Cantwell
Native Village of Chenega (aka Chanega)
Native Village of Chignik Lagoon
Native Village of Chitina
Native Village of Chuathbaluk (Russian Mission, Kuskokwim)
Native Village of Council
Native Village of Deering
Native Village of Diomede (aka Inalik)
Native Village of Eagle
Native Village of Eek
Native Village of Ekuk
Native Village of Ekwok
Native Village of Elim
Native Village of Eyak (Cordova)
Native Village of False Pass
Native Village of Fort Yukon
Native Village of Gakona
Native Village of Gambell
Native Village of Georgetown
Native Village of Goodnews Bay
Native Village of Hamilton
Native Village of Hooper Bay
Native Village of Kanatak
Native Village of Karluk
Native Village of Kiana
Native Village of Kipnuk
Native Village of Kivalina
Native Village of Kluti Kaah (aka Copper Center)
Native Village of Kobuk
Native Village of Kongiganak
Native Village of Kotzebue
Native Village of Koyuk
Native Village of Kwigillingok
Native Village of Kwinhagak (aka Quinhagak)
Native Village of Larsen Bay
Native Village of Marshall (aka Fortuna Ledge)
Native Village of Mary's Igloo
Native Village of Mekoryuk
Native Village of Minto
Native Village of Nanwalek (aka English Bay)
Native Village of Napaimute
Native Village of Napakiak
Native Village of Napaskiak
Native Village of Nelson Lagoon
Native Village of Nightmute
Native Village of Nikolski
Native Village of Noatak
Native Village of Nuiqsut (aka Nooiksut)
Native Village of Nunam Iqua
Native Village of Nunapitchuk
Native Village of Ouzinkie
Native Village of Paimiut
Native Village of Perryville
Native Village of Pilot Point
Native Village of Point Hope
Native Village of Point Lay
Native Village of Port Graham
Native Village of Port Heiden
Native Village of Port Lions
Native Village of Ruby
Native Village of Saint Michael
Native Village of Savoonga
Native Village of Scammon Bay
Native Village of Selawik
Native Village of Shaktoolik
Native Village of Shishmaref
Native Village of Shungnak
Native Village of Stevens
Native Village of Tanacross
Native Village of Tanana
Native Village of Tatitlek
Native Village of Tazlina
Native Village of Teller
Native Village of Tetlin
Native Village of Tuntutuliak
Native Village of Tununak
Native Village of Tyonek
Native Village of Unalakleet
Native Village of Unga
Native Village of Venetie Tribal Government (Arctic Village and Village of Venetie)
Native Village of Wales
Native Village of White Mountain
Nenana Native Association
New Koliganek Village Council
New Stuyahok Village
Newhalen Village
Newtok Village
Nikolai Village
Ninilchik Village
Nome Eskimo Community
Nondalton Village
Noorvik Native Community
Northway Village
Nulato Village
Nunakauyarmiut Tribe
Organized Village of Grayling (aka Holikachuk)
Organized Village of Kake
Organized Village of Kasaan
Organized Village of Kwethluk
Organized Village of Saxman
Orutsararmiut Traditional Native Council
Oscarville Traditional Village
Pauloff Harbor Village
Pedro Bay Village
Petersburg Indian Association
Pilot Station Traditional Village
Pitka's Point Traditional Council
Platinum Traditional Village
Portage Creek Village (aka Ohgsenakale)
Pribilof Islands Aleut Communities of St. Paul & St. George Islands (Saint George Island and Saint Paul Island)
Qagan Tayagungin Tribe of Sand Point
Qawalangin Tribe of Unalaska
Rampart Village
Saint George Island (*See* Pribilof Islands Aleut Communities of St. Paul & St. George Islands)

Saint Paul Island (*See* Pribilof Islands Aleut Communities of St. Paul & St. George Islands)
Salamatof Tribe
Seldovia Village Tribe
Shageluk Native Village
Sitka Tribe of Alaska
Skagway Village
South Naknek Village
Stebbins Community Association
Sun'aq Tribe of Kodiak
Takotna Village
Tangirnaq Native Village
Telida Village
Traditional Village of Togiak
Tuluksak Native Community
Twin Hills Village
Ugashik Village
Umkumiut Native Village
Village of Alakanuk
Village of Anaktuvuk Pass
Village of Aniak
Village of Atmautluak
Village of Bill Moore's Slough
Village of Chefornak
Village of Clarks Point
Village of Crooked Creek
Village of Dot Lake
Village of Iliamna
Village of Kalskag
Village of Kaltag
Village of Kotlik
Village of Lower Kalskag
Village of Ohogamiut
Village of Red Devil
Village of Sleetmute
Village of Solomon
Village of Stony River
Village of Venetie (*See* Native Village of Venetie Tribal Government)
Village of Wainwright
Wrangell Cooperative Association
Yakutat Tlingit Tribe
Yupiit of Andreafski

[FR Doc. 2024–00109 Filed 1–5–24; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR957000.L1440000.BJ0000.245; BLM_OR_FRN_MO4500177341]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior

ACTION: Notice of official filing.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management (BLM), Oregon State Office, Portland, Oregon, 30 calendar days from the date of this publication.

DATES: Protests must be received by the BLM prior to the scheduled date of official filing, February 7, 2024.

ADDRESSES: A copy of the plats may be obtained from the Public Room at the Bureau of Land Management, Oregon State Office, 1220 SW 3rd Avenue, Portland, Oregon 97204, upon required payment. The plats may be viewed at this location at no cost.

FOR FURTHER INFORMATION CONTACT: Robert Femling, telephone: (503) 808–6633, email: *rfemling@blm.gov,* Branch of Geographic Sciences, Bureau of Land Management, 1220 SW 3rd Avenue, Portland, Oregon 97204. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 1–800–877–8339 to contact Mr. Femling during normal business hours. The service is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management, Oregon State Office, Portland, Oregon:

Willamette Meridian, Oregon

T. 33 S., R. 5 W., accepted December 15, 2023
T. 25 S., R. 23 E. & T. 26 S., R. 24 E., accepted December 15, 2023
T. 38 S., R. 4 W., accepted December 15, 2023
T. 34 S., R. 1 E., accepted December 15, 2023

A person or party who wishes to protest one or more plats of survey identified above must file a written notice of protest with the Chief Cadastral Surveyor for Oregon/Washington, Bureau of Land Management. The notice of protest must identify the plat(s) of survey that the person or party wishes to protest. The notice of protest must be filed before the scheduled date of official filing for the plat(s) of survey being protested. Any notice of protest filed after the scheduled date of official filing will be untimely and will not be considered. A notice of protest is considered filed on the date it is received by the Chief Cadastral Surveyor for Oregon/Washington during regular business hours; if received after regular business hours, a notice of protest will be considered filed the next business day. A written statement of reasons in support of a protest, if not filed with the notice of protest, must be filed with the Chief Cadastral Surveyor for Oregon/Washington within 30 calendar days after the notice of protest is filed. If a notice of protest against a plat of survey is received prior to the scheduled date of official filing, the official filing of the plat of survey identified in the notice of protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the next business day following dismissal or resolution of all protests of the plat.

Before including your address, phone number, email address, or other personal identifying information in a notice of protest or statement of reasons, you should be aware that the documents you submit—including your personal identifying information—may be made publicly available in their entirety at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 43 U.S.C. chapter 3)

Robert Femling,

Chief Cadastral Surveyor of Oregon/Washington.

[FR Doc. 2024–00156 Filed 1–5–24; 8:45 am]

BILLING CODE 4331–24–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037200; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Portland State University, Portland, OR

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Portland State University (PSU) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from southwest Florida.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after February 7, 2024.

ADDRESSES: Reno Nims, Portland State University, Research & Graduate Studies, P.O. Box 751, Portland, OR 97207, telephone (503) 725–6611, email *nagpra@pdx.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of PSU. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by PSU.

Description

Human remains representing, at minimum, six individuals were removed from unknown locations in southwest Florida at an unknown date. PSU faculty members encountered these human remains in the Anthropology Department's archeology holdings at an unknown date between 1990 and 2002 in a box labeled ''Arch-2 Burial.'' Some of the human remains in this box were kept in a bag labeled ''Florida,'' and they were associated with other Native American human remains that were removed from Galt's Kay in Sarasota County, FL (Smithsonian catalog number: 292.763) and Casey Key in Lee County, FL (Smithsonian catalog numbers: 229.311, 229.316, 229.319, 229.320, 229.324, 229.328, 229.330, 229.334, 229.253, 229.259, and 229.844) by Aleš Hrdlička in 1916 or 1917 that are under the control of the Smithsonian National Museum of Natural History. These human remains are all reasonably believed to have been brought to PSU by Marshall ''Bud'' Newman in 1962 when he left his position as Associate Curator of Physical Anthropology at the Smithsonian National Museum of Natural History to join the Anthropology Department at PSU. The 11 associated funerary objects are six pieces of worked faunal remains, two stone projectile points, one stone drill, one metal fragment, and one stone bowl fragment.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: anthropological information, archeological information, geographical information, and historical information.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, PSU has determined that:

- The human remains described in this notice represent the physical remains of six individuals of Native American ancestry.
- The 11 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Seminole Tribe of Florida and The Seminole Nation of Oklahoma.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after February 7, 2024. If competing requests for repatriation are received, PSU must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. PSU is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: December 28, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–00129 Filed 1–5–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037199; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: The Fort Ticonderoga Association, Ticonderoga, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), The Fort Ticonderoga Association has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from Essex County, NY.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after February 7, 2024.

ADDRESSES: Margaret Staudter, The Fort Ticonderoga Association, 30 Fort Ti Rd., Ticonderoga, NY 12883, telephone (518) 585–1015, email *mstaudter@fort-ticonderoga.org.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of The Fort Ticonderoga Association. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by The Fort Ticonderoga Association.

Description

Human remains representing, at minimum, three individuals were removed from the Ticonderoga Rock Shelter #2 in Essex County, NY. In September 1936, members of the Champlain Valley Archaeology Society led an excavation of a rock shelter near ''Sentinel Rock'', a point on the Ticonderoga peninsula. The individuals (FT HR–01; FT HR–03; FT HR–08), and associated funerary objects were removed during the excavations were brought to Fort Ticonderoga. The 73 associated funerary objects are two bone awls, one lot of beaver teeth, one lot of bird bones, one lot of bear bones, one lot of bobcat bones, one lot of unidentified bones, one lot of nutshell fragments, one bullfrog pelvis, one lot of Canadian goose bones, one carnivore mandible, one lot of catfish/bullhead bones, one lot of *Cervidae* bones, one lot of chipmunk bones, one antler chisel, two bone claws, one lot of *Colubridae* (snake) bones, one lot of debitage, one lot of dog bones, one lot of duck bones, one lot of bone engravers, one lot of fish bones, one lot of fisher bones, one bone fishhook, one lot of bone flakers, one freshwater drum, two freshwater

mussels, one lot of gar scales, one lot of gray fox bones, one lot of gray squirrel bones, one bone harpoon barb, one lot of snail shells, one lot of large mammal bones, one lynx mandible, one lot of mammal bones, one lot of mink bones, one lot of assorted objects, one lot of muskrat bones, one lot of mussel shell, one bone perforator/pin, one lot of porcupine bones, one lot of projectile points, one lot of pumpkinseed (fish) cranial fragments, one lot of antler punches, one lot of racoon bones, one lot of rattlesnake bones, one lot of rodent bones, one lot of bone scrapers, one lot of clay rim sherds, one clay collar sherd, one lot of clay body sherds, one undecorated clay sherd, one lot of small mammal bones, one lot of snail shell fragments, one lot of antler spikes, one lot of stinkpot bones, one limestone fragment, one unworked jasper pebble, one lot of sunfish bones, one lot of stone tools, one lot of turkey bones, one lot of turtle bones, one lot of unidentified bone, one lot of unidentified fish bone, one lot of unidentified mineral objects, one lot of vertebrate bones, one lot of walleye bones, two white perch cranial fragments, one lot of white tail deer bones, and one lot of yellow perch cranial fragments.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes. The following types of information were used to reasonably trace the relationship: archeological and geographical evidence.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, The Fort Ticonderoga Association has determined that:

- The human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- The 73 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Cayuga Nation; Oneida Indian Nation; Oneida Nation; Onondaga Nation; Saint Regis Mohawk Tribe; Seneca Nation of Indians; Seneca-Cayuga Nation; Stockbridge Munsee Community, Wisconsin; Tonawanda Band of Seneca; and the Tuscarora Nation.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after February 7, 2024. If competing requests for repatriation are received, the Fort Ticonderoga Association must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The Fort Ticonderoga Association is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: December 28, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–00128 Filed 1–5–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037205; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: California State University, Chico, Chico, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), California State University, Chico (CSU Chico) intends to repatriate certain cultural items that meet the definition of objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice. The cultural items were removed from Butte County, CA.

DATES: Repatriation of the cultural items in this notice may occur on or after February 7, 2024.

ADDRESSES: Dawn Rewolinski, California State University, Chico, 400 W 1st Street, Chico, CA 95929, telephone (530) 898–3090, email *drewolinski@csuchico.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of CSU Chico. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records held by CSU Chico.

Description

Accession 434

The 15 cultural items were removed from Butte County, CA. Sycamore Canyon Rock Shelter (CA–BUT–827) was surveyed by Bill Dreyer and Dan Foster in 1982. The cultural items that were archeologically recovered were brought to CSU Chico at an unknown date by an unknown individual. The 15 objects of cultural patrimony are 14 lots of modified stone and one lot of soil.

Cultural Affiliation

The cultural items in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: The following types of information were used to reasonably trace the relationship: anthropological information, archeological information, oral tradition, and expert opinion in the form of Tribal traditional knowledge.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, CSU Chico has determined that:

• The 15 cultural items described above have ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.

• There is a relationship of shared group identity that can be reasonably traced between the cultural items and the Mechoopda Indian Tribe of Chico Rancheria, California.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after February 7, 2024. If competing requests for repatriation are received, CSU Chico must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. CSU Chico is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.8, 10.10, and 10.14.

Dated: December 28, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–00134 Filed 1–5–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–37212; 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 30, 2023, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by January 23, 2024.

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 30, 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.

ARIZONA

Maricopa County

Windes, Dudley and Hope, Farmstead, 8841 S 27th Avenue, Phoenix, SG100009923

Luhrs Building (Phoenix Commercial MRA), 11 W Jefferson, Phoenix, 85003561

CALIFORNIA

Amador County

Preston School of Industry, 201 Waterman Road, Ione, SG100009890

CONNECTICUT

Middlesex County

Commerce Street Historic District, 10–34, 38, 52, 58, odd #s 59–105, 109–125, 140–142 Commerce St., 7–9 Fisk Ave., Clinton, SG100009867

IDAHO

Bonneville County

St. John Lutheran Church, 290 7th Street, Idaho Falls, SG100009872

Canyon County

Melba I.O.OF. Lodge Hall, 310 Carrie Rex Avenue, Melba, SG100009871

Latah County

Deary Garage, 307 Main Street, Deary, SG100009873

Oneida County

American Legion Malad Post 65, 78 N Main St., Malad, SG100009874

NEW YORK

Dutchess County

Standard Gage Company Plant, 58 Parker Avenue, Poughkeepsie, SG100009881

Erie County

Winspear Extension Historic District, 393–638 Highgate Avenue; 16–258 Rounds Avenue (north side only); 361–605 B street & number and 412–604 Winspear Avenue; Orleans Street and Suffolk Street between Winspear Avenue and Rounds Avenue, Buffalo, SG100009880

Essex County

Wadhams Grange Hall, 774 NYS Route 22, Westport, SG100009879

Ontario County

South Farmington Friends Cemetery and Meetinghouse Site, 4899 Shortsville Rd. & County Road 28, Farmington, SG100009878

Ulster County

William H. and Mary M. Romeyn House, 52 St. James Street, Kingston, SG100009877

Wayne County

Third Methodist Episcopal Church of Sodus, 56–58 West Main Street, Sodus, SG100009875

OHIO

Mahoning County

Legal Arts Centre, 101 Market Street, Youngstown, SG100009920

Trumbull County

Youngstown Country Club, 1402 Country Club Drive, Youngstown, SG100009888

OKLAHOMA

Okmulgee County

Grayson Jail, approx. 200 ft west, intersection of Perkins St. and Finley St., Grayson, SG100009891

PENNSYLVANIA

Crawford County

William and Elisabeth Edwards House, 128 Davenport Street, Spartansburg, SG100009921

Dauphin County

Zembo Shrine, 2801 North Third Street, Harrisburg, SG100009919

Lehigh County

Nineteenth Street Theater, 527 N Nineteenth Street, Allentown, SG100009917

Northampton County

Bath Crossroads Historic District, Roughly 12 blocks centered around Chestnut and Main streets, Bath, SG100009916

Philadelphia County

Pringle Electrical Manufacturing Company Building, 1906–12 N 6th Street, Philadelphia, SG100009918

SOUTH CAROLINA

Aiken County

McGhee Block, 201–209 Richland Avenue W, Aiken, SG100009883

Spartanburg County

Groce, Augustus Belton and Margaret Wheeler, House, 110 Ridge Road, Lyman, SG100009889

TEXAS

Austin County

Bellville Turnverein, 966 East Main Street, Bellville, SG100009870

Bexar County

Hugo & Schmeltzer Company Warehouse, 1226 E Houston Street, San Antonio, SG100009887

Dallas County

Longhorn Ballroom, 200 Corinth Street, Dallas, SG100009894

Harris County

Lightfoot, Ewart H. and Lillian, House, 3702 Audubon Place, Houston, SG100009922

Nueces County

Ritz Theatre, 715 North Chaparral Street, Corpus Christi, SG100009892

Potter County

Herring Hotel, 311 SE 3rd Avenue, Amarillo, SG100009886

Refugio County

Mitchell-Simmons House, 904 Commerce Street, Refugio, SG100009893

Tarrant County

Oil & Gas Building, 309 W 7th Street, Fort Worth, SG100009864

Victoria County

Bernhard Electric Building, 103–109 E Goodwin Avenue, Victoria, SG100009882

WISCONSIN

Brown County

Sunset Circle Residential Historic District, 600–680 Sunset Circle; 3325 Vista Road, Allouez, SG100009865

A request for removal has been made for the following resource(s):

HAWAII

Honolulu County

FALLS OF CLYDE, Pier 7, Honolulu Harbor, Honolulu, OT73000659

An additional documentation has been received for the following resource(s):

INDIANA

Franklin County

Brookville Historic District (Additional Documentation), Bounded by E and W fork of Whitewater River and IN 101, Brookville, AD75000018

Authority: Section 60.13 of 36 CFR part 60.

Sherry A. Frear,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

[FR Doc. 2024–00143 Filed 1–5–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037202; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Portland State University, Portland, OR

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Portland State University (PSU) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from Clark County, WA, and Columbia County, OR.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after February 7, 2024.

ADDRESSES: Reno Nims, Portland State University, Research & Graduate Studies, P.O. Box 751, Portland, OR 97207, telephone (503) 725–6611, email *nagpra@pdx.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of PSU. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by PSU.

Description

Human remains representing, at minimum, three individuals were removed from Lady Island (45–CL–48) in Clark County, WA, by Oregon Archaeological Society members. Radiocarbon dates from the site suggest these individuals may have been buried between 750 cal BCE and 200 cal CE. Unknown individuals donated the human remains to PSU at an unknown date between 1976 and 2011. The 27 associated funerary objects are one wood fragment, one faunal cranium, and 25 obsidian flakes.

Human remains representing, at minimum, 13 individuals were removed from the Herzog site (45–CL–11) in Clark County, WA, in 1965 by PSU under the direction of Thomas Newman, a faculty member in the Anthropology Department. The 20 associated funerary objects are two ceramic sherds, eight nails, three metal spoons, one lot of brick fragments, two lots of wood fragments, three rocks, and one fire-cracked rock.

Human remains representing, at minimum, three individuals were removed from the Meier site (35–CO–5) in Columbia County, OR, between 1987 and 1991, by PSU under the direction of Ken Ames, a faculty member in the Anthropology Department. These human remains were inadvertently excavated from deposits of faunal remains, and subsequently identified as human between 1991 and 1992 during faunal sorting and analysis. Radiocarbon dates and fur trade items from the site suggest these individuals may have been buried between 1000 cal CE and the late 1700s CE. The 15 associated funerary objects are faunal remains.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: anthropological information, archeological information, geographical information, and historical information.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after

consultation with the appropriate Indian Tribes and Native Hawaiian organizations, PSU has determined that:

- The human remains described in this notice represent the physical remains of 19 individuals of Native American ancestry.
- The 62 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Confederated Tribes and Bands of the Yakama Nation; Confederated Tribes of Siletz Indians of Oregon; Confederated Tribes of the Grand Ronde Community of Oregon; Confederated Tribes of the Umatilla Indian Reservation; Confederated Tribes of the Warm Springs Reservation of Oregon; and the Cowlitz Indian Tribe.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after February 7, 2024. If competing requests for repatriation are received, PSU must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. PSU is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: December 28, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–00131 Filed 1–5–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037203; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Portland State University, Portland, OR

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Portland State University (PSU) has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice. The human remains were removed from Columbia County, OR, and Cowlitz County, WA.

DATES: Repatriation of the human remains in this notice may occur on or after February 7, 2024.

ADDRESSES: Reno Nims, Portland State University, Research & Graduate Studies, P.O. Box 751, Portland, OR 97207, telephone (503) 725–6611, email *nagpra@pdx.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of PSU. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by PSU.

Description

Human remains representing, at minimum, three individuals were removed from the Trojan site (35–CO–1) in Columbia County, OR, between 1968 and 1970 by members of the Oregon Archaeological Society. Excavated human remains were taken to PSU for osteological analysis. Radiocarbon dates and fur trade items from the site suggest these individuals may have been buried between 600 cal CE and the early 1800s CE. No associated funerary objects are present.

Human remains representing, at minimum, four individuals were removed from the Abernathy Creek site (45–CW–2) in Cowlitz County, WA, sometime before 1940, by Sanford Lord. In 1960, Sanford Lord donated these human remains to the Cowlitz County Historical Museum along with the bulk of his collection of Native American objects. On May 4, 1998, the director of the Cowlitz County Historical Museum, David Freece, transferred these human remains to PSU. No associated funerary objects are present.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: anthropological information, archeological information, geographical information, and historical information.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, PSU has determined that:

- The human remains described in this notice represent the physical remains of seven individuals of Native American ancestry.
- There is a relationship of shared group identity that can be reasonably traced between the human remains described in this notice and the Confederated Tribes and Bands of the Yakama Nation; Confederated Tribes of Siletz Indians of Oregon; Confederated Tribes of the Grand Ronde Community of Oregon; Confederated Tribes of the Umatilla Indian Reservation; Confederated Tribes of the Warm Springs Reservation of Oregon; and the Cowlitz Indian Tribe.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice, and, if joined to a request from one or more of the Indian Tribes, Chinook Indian Nation, a non-federally recognized Indian group.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows,

by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains in this notice to a requestor may occur on or after February 7, 2024. If competing requests for repatriation are received, PSU must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. PSU is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–00132 Filed 1–5–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037197; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Bonanzaville, Cass County Historical Society, West Fargo, ND

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Bonanzaville, Cass County Historical Society (Bonanzaville) has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes in this notice. The human remains were removed from unknown locations in either North Dakota or South Dakota.

DATES: Repatriation of the human remains in this notice may occur on or after February 7, 2024.

ADDRESSES: David Hubin, Curator, Bonanzaville, Cass County Historical Society, 1351 Main Avenue West, West Fargo, ND 58078, telephone (701) 282–2822, email *dhubin@bonanzaville.com.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of Bonanzaville. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by Bonanzaville.

Description

On an unknown date, human remains representing, at minimum, one individual were removed from an unknown location. The human remains, a bracelet made of human finger and toe bones, were loaned to the State Teachers College in Moorhead, MN, which would later become the Clay County Historical Society in Moorhead, MN, by Usher Burdick. It was part of a larger collection of Native American items loaned by Burdick for display starting in 1930. In 1970, at the request of Quentin Burdick (Usher's son), the collection was transferred to the Cass County Historical Society, ND, for display in their new Native American Museum with full ownership. The finger bone bracelet is mentioned in several early inventories, but no other information is given on how Usher Burdick received the items. No known individuals were identified. No associated funerary objects are present.

Usher Burdick was a member of the North Dakota State House of Representatives from 1907 to 1911 and served as Speaker in 1909. He was Lieutenant Governor of North Dakota from 1911 to 1913 and served as assistant United States district attorney for North Dakota from 1929 to 1932. Burdick was a State Representative for North Dakota from 1935 to 1944 and again from 1949–1959. His service to North Dakota led him to many relationships with tribal leaders in North and South Dakota who either gave him or sold him Native American items. We can only assume that these human remains were given to him in the same manner.

A physical examination of the human remains by Phoebe Stubblefield, Professor of Forensic Anthropology at the University of North Dakota and Paul Picha, Chief Anthropologist at the State Historical Society of North Dakota revealed some additional clues. They confirmed the bones to be human and the bracelet contains a combination of first distal phalange from thumbs and first toe and distal phalange from other four digits. Stubblefield concluded that the human remains had spent some time buried and may have spent some time on a scaffold. Each bone has had a precise hole drilled suggesting a modern drill bit. Both Stubblefield and Picha estimate the age to be 100–150 years old based on native customs and the decomposition of the bones. Based on the physical evidence, we could not determine race or tribal affiliation. Because of its inclusion in the Native American collection given by Burdick and his collecting habits, staff has deduced that the human remains are Native American remains from a North Dakota or South Dakota Tribe.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: geographical and historical.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, Bonanzaville has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- There is a relationship of shared group identity that can be reasonably traced between the human remains described in this notice and the Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Flandreau Santee Sioux Tribe of South Dakota; Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota; Oglala Sioux Tribe; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota; Spirit Lake Tribe, North Dakota; Standing Rock Sioux Tribe of North & South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Turtle Mountain Band of Chippewa Indians of North Dakota; and the Yankton Sioux Tribe of South Dakota.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains in this notice to a requestor may occur on or after February 7, 2024. If competing requests for repatriation are received, Bonanzaville must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. Bonanzaville is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: December 28, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–00126 Filed 1–5–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037196; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, National Park Service, Lake Mead National Recreation Area, NV

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Department of the Interior, National Park Service, Lake Mead National Recreation Area (LAKE) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from Clark County, NV.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after February 7, 2024.

ADDRESSES: Mike Gauthier, Superintendent, Lake Mead National Recreation Area, 601 Nevada Way, Boulder City, NV 89005, telephone (760) 252–6103, email *mike_gauthier@nps.gov.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Superintendent, LAKE. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by LAKE.

Description

Human remains representing, at minimum, one individual were removed from the Lost City site (26CK007) in Clark County, NV, in the early to mid-1960s by amateur archeologist R.V. Seeley during his exploration of the site. The collection was donated by Mr. Seeley to the Burke Museum at the University of Washington in 1965 and later transferred to LAKE in 2002. The two associated funerary objects are one lot of ceramic sherds and one lot of lithic fragments.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: anthropological information, archeological information, geographical information, and historical information.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, LAKE has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- The two objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Ak-Chin Indian Community; Chemehuevi Indian Tribe of the Chemehuevi Reservation, California; Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California; Fort Mojave Indian Tribe of Arizona, California & Nevada; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Havasupai Tribe of the Havasupai Reservation, Arizona; Hopi Tribe of Arizona; Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Navajo Nation, Arizona, New Mexico, & Utah; Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes); Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Yavapai-Prescott Indian Tribe; and the Zuni Tribe of the Zuni Reservation, New Mexico.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after February 7, 2024. If competing requests for repatriation are received, LAKE must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. LAKE is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25

U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: December 28, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–00125 Filed 1–5–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037198; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of Wisconsin-Milwaukee, Milwaukee, WI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of Wisconsin-Milwaukee (UWM) has completed an inventory of human remains and associated funerary object and has determined that there is a cultural affiliation between the human remains and associated funerary object and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary object were removed from Clark County, IN.

DATES: Repatriation of the human remains and associated funerary object in this notice may occur on or after February 7, 2024.

ADDRESSES: Jennifer R. Haas, NAGPRA Coordinator, University of Wisconsin-Milwaukee, P.O. Box 413, Milwaukee, WI 53201, telephone (414) 229–3078, email *haasjr@uwm.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the UWM. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the UWM.

Description

On an unknown date, human remains representing, at minimum, two individuals were removed from Clark County, IN, by Paul Turney (also spelled ''Tourney'') during investigations at the ''Kelly'' site, part of the Old Clarksville Site (12CL1). The human remains and associated funerary object were donated to the University of Wisconsin-Milwaukee in 1990 after Turney's death. The one associated funerary object is one lot of faunal bone including an antler tine and two indeterminate fragments.

Cultural Affiliation

The human remains and associated funerary object in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: geographical information and expert opinion.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the UWM has determined that:

- The human remains described in this notice represent the physical remains of two individuals of Native American ancestry.
- The one object described in this notice is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana; Citizen Potawatomi Nation, Oklahoma; Eastern Shawnee Tribe of Oklahoma; Forest County Potawatomi Community, Wisconsin; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Kickapoo Traditional Tribe of Texas; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Kickapoo Tribe of Oklahoma; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little River Band of Ottawa Indians, Michigan; Little Shell Tribe of Chippewa Indians of Montana; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Miami Tribe of Oklahoma; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band); Nottawaseppi Huron Band of the Potawatomi, Michigan; Ottawa Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan, and Indiana; Prairie Band Potawatomi Nation; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Saginaw Chippewa Indian Tribe of Michigan; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; Shawnee Tribe; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; Stockbridge Munsee Community, Wisconsin; Turtle Mountain Band of Chippewa Indians of North Dakota; and the Wyandotte Nation.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary object in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary object in this notice to a requestor may occur on or after February 7, 2024. If competing requests for repatriation are received, the UWM must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary object are considered a single request and not competing requests. The UWM is responsible for sending a copy of this notice to the Indian Tribes organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: December 28, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–00127 Filed 1–5–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037195; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, National Park Service, Yosemite National Park, El Portal, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Department of the Interior, National Park Service, Yosemite National Park (YOSE) has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice. The human remains were removed from Mariposa County, CA.

DATES: Repatriation of the human remains in this notice may occur on or after February 7, 2024.

ADDRESSES: Cicely Muldoon, Superintendent, Yosemite National Park, 9039 Village Drive, Yosemite National Park, CA 95389, telephone (202) 372–8181, email *cicely_muldoon@nps.gov.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Superintendent, YOSE. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by YOSE.

Description

Human remains representing, at minimum, one individual were removed from an unknown site in Mariposa County, CA, in the 1930s by a California Conservation Crew working in the Crane Flat area. The human remains were identified at the time of discovery as Native American by a physical anthropologist and were turned over to the Yosemite Museum by Gus Eastman, the park ranger overseeing the crew. No associated funerary objects are present.

Human remains representing, at minimum, one individual were removed from an unknown site in the Cascades area in Mariposa County, CA, in the 1930s. The human remains were identified at the time of discovery as Native American by a physical anthropologist and were turned over by a donor named Edward L. Eidem. No associated funerary objects are present.

Human remains representing, at minimum, three individuals were removed from CA–MRP–301 in Mariposa County, CA in 1988 during heavy equipment excavation of a trench for a National Park Service electrical line. An examination by a physical anthropologist determined that these human remains are Native American and were buried approximately 800 years ago. No associated funerary objects are present.

Cultural Affiliation

The human remains in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: archeological information, biological information, geographical information, historical information, and expert opinion.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, YOSE has determined that:

- The human remains described in this notice represent the physical remains of five individuals of Native American ancestry.
- There is a relationship of shared group identity that can be reasonably traced between the human remains described in this notice and the Bishop Paiute Tribe; Bridgeport Indian Colony; Northfork Rancheria of Mono Indians of California; Picayune Rancheria of Chukchansi Indians of California; and the Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes identified in this notice and, if joined to a request from one or more of the Indian Tribes, the Southern Sierra Miwuk Nation, and Mono Lake Kootzaduka'a Tribe, non-federally recognized Indian groups.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains in this notice to a requestor may occur on or after February 7, 2024. If competing requests for repatriation are received, YOSE must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. YOSE is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: December 28, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–00124 Filed 1–5–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037204; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: California State University, Chico, Chico, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the California State University, Chico (CSU Chico) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from CSU Chico.

DATES: Repatriation of the human remains and associated funerary objects

in this notice may occur on or after February 7, 2024.

ADDRESSES: Dawn Rewolinski, California State University, Chico, 400 W 1st Street, Chico, CA 95929, telephone (530) 898–3090, email *drewolinski@csuchico.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of CSU Chico. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by CSU Chico.

Description

The Finch Site (CA–BUT–12) in Butte County, CA, was first recorded by A. Pilling in 1949 and later in 1963 by Dorothy Hill. Francis Riddell led a Chico State College (now CSU, Chico) field class excavation at the site in the summer of 1963, and Professor Keith Johnson, accompanied by Riddell, led a second excavation at the site with a Chico State College field class in spring, 1964. Joseph Chartkoff (then of UCLA) led an excavation at the site in summer, 1967. In spring, 1983, and spring, 1984, Professor Makoto Kowta led CSU, Chico field class excavations at the site. Our records indicated the site was archeologically recovered as a joint project between UCLA and CSU Chico. CSU Chico contacted UCLA to determine if they held any additional human remains and cultural items from the 1967 archeological recovery. UCLA determined they did have cultural items from CA–BUT–12 and transferred legal and physical control of the additional cultural items to CSU Chico on October 23, 2023. Human remains were also identified in the rehousing process of the additional cultural items at CSU Chico.

Human remains representing, at minimum, two individuals were removed from Butte County, CA. The 6,735 associated funerary objects were a part of the original excavations and collection, which UCLA transferred to CSU Chico to be reinterred with the ancestors and cultural items of Accession 4, Finch Site (CA–BUT–12) listed in the Notice of Inventory Completion published in the **Federal Register** on June 29, 2023 (88 FR 42099–42101). The additional 6,735 associated funerary objects are 47 lots of organics, 1,914 lots of debitage, 426 lots of modified stone, 123 lots of projectile points, 218 lots of unmodified shell, 500 lots of modified shell, 53 lots of charcoal, 325 lots of soil, 2,866 lots of faunal elements, 261 lots of modified faunal elements, one lot of modified clay, and one lot of ochre.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: anthropological information, archeological information, oral tradition, and expert opinion in the form of tribal traditional knowledge.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, CSU Chico has determined that:

- The human remains described in this notice represent the physical remains of two individuals of Native American ancestry.
- The 6,735 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Mechoopda Indian Tribe of Chico Rancheria, California.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after February 7, 2024. If competing requests for repatriation are received, CSU Chico must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. CSU Chico is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: December 28, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–00133 Filed 1–5–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0037201; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Portland State University, Portland, OR

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Portland State University (PSU) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from Tillamook County, OR.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after February 7, 2024.

ADDRESSES: Reno Nims, Portland State University, Research & Graduate Studies, P.O. Box 751, Portland, OR 97207, telephone (503) 725–6611, email *nagpra@pdx.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of PSU. The National Park Service is not responsible for the determinations in this notice. Additional information on the

determinations in this notice, including the results of consultation, can be found in the inventory or related records held by PSU.

Description

Human remains representing, at minimum, five individuals were removed from an unknown location in Tillamook County, OR, at an unknown date. PSU faculty members encountered these human remains in the Anthropology Department's archeology holdings at an unknown date between 2003 and 2011. The 21 associated funerary objects are 15 pieces of worked stone, three burnt faunal remains, one bivalve shell, and two ceramic plate fragments.

Human remains representing, at minimum, one individual were removed from the site of Chishucks Village in Tillamook County, OR, in 1971 by Ron Kent, a PSU master's student in the Anthropology Department. These human remains were inadvertently excavated from deposits of faunal remains, and subsequently identified as human in 2021 and 2022 by PSU staff members during a thorough search for Native American human remains and cultural items in the Anthropology Department's archeology holdings. The one associated funerary object is a clay pipe fragment.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: anthropological information, archeological information, geographical information, and historical information.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, PSU has determined that:

- The human remains described in this notice represent the physical remains of six individuals of Native American ancestry.
- The 22 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Confederated Tribes of Siletz Indians of Oregon; Confederated Tribes of the Grand Ronde Community of Oregon; and the Confederated Tribes of the Warm Springs Reservation of Oregon.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice, and, if joined to a request from one or more of the Indian Tribes, Chinook Indian Nation, a non-federally recognized Indian group.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after February 7, 2024. If competing requests for repatriation are received, PSU must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. PSU is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: December 28, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–00130 Filed 1–5–24; 8:45 am]

BILLING CODE 4312–52–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (24–001)]

Notice of Intent To Grant an Exclusive, Co-Exclusive or Partially Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant exclusive, co-exclusive or partially exclusive patent license.

SUMMARY: NASA hereby gives notice of its intent to grant an exclusive, co-exclusive or partially exclusive patent license to practice the inventions described and claimed in the patents and/or patent applications listed in **SUPPLEMENTARY INFORMATION** below.

DATES: The prospective exclusive, co-exclusive or partially exclusive license may be granted unless NASA receives written objections including evidence and argument, no later than January 23, 2024 that establish that the grant of the license would not be consistent with the requirements regarding the licensing of federally owned inventions as set forth in the Bayh-Dole Act and implementing regulations. Competing applications completed and received by NASA no later than January 23, 2024 will also be treated as objections to the grant of the contemplated exclusive, co-exclusive or partially exclusive license. Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act.

Objections and Further Information: Written objections relating to the prospective license or requests for further information may be submitted to Agency Counsel for Intellectual Property, NASA Headquarters at Email: *hq-patentoffice@mail.nasa.gov.* Questions may be directed to Phone: (202) 358–0646.

SUPPLEMENTARY INFORMATION: NASA intends to grant an exclusive, co-exclusive, or partially exclusive patent license in the United States to practice the inventions described and claimed in: U.S. Patent Application Serial No. 17/999,875, entitled ''Manual Ventilators and Methods for Making Ventilators'' to LifeBot, LLC., having its principal place of business in Chicago, Illinois. The fields of use may be limited. NASA has not yet made a final determination to grant the requested license and may deny the requested license even if no objections are submitted within the comment period. This notice of intent to grant an exclusive, co-exclusive or partially exclusive patent license is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). The patent rights in these inventions have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective license will comply with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov.*

Trenton J. Roche,

Agency Counsel for Intellectual Property.

[FR Doc. 2024–00103 Filed 1–5–24; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2024–011]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA has submitted to OMB for approval the information collection described in this notice. We invite you to comment on the proposed information collection.

DATES: OMB must receive written comments on or before February 7, 2024.

ADDRESSES: Send any comments and recommendations on the proposed information collection in writing to *www.reginfo.gov/public/do/PRAMain.* You can find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Tamee Fechhelm, Paperwork Reduction Act Officer, by email at *tamee.fechhelm@nara.gov* or by telephone at 301.837.1694 with any requests for additional information.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we invite the public and other Federal agencies to comment on proposed information collections. We published a notice of proposed collection for this information collection on October 23, 2023 (88 FR 72795) and we received no comments. We are therefore submitting the described information collection to OMB for approval.

If you have comments or suggestions, they should address one or more of the following points: (a) whether the proposed information collection is necessary for NARA to properly perform its functions; (b) our estimate of the burden of the proposed information collection and its accuracy; (c) ways we could enhance the quality, utility, and clarity of the information we collect; (d) ways we could minimize the burden on respondents of collecting the information, including through information technology; and (e) whether this collection affects small businesses.

In this notice, we solicit comments concerning the following information collection:

Title: Presidential Library Facilities.

OMB number: 3095–0036.

Agency form number: None.

Type of review: Regular.

Affected public: Presidential library foundations or other entities proposing to transfer a Presidential library facility to NARA.

Estimated number of respondents: 1.

Estimated time per response: 31 hours.

Frequency of response: On occasion.

Estimated total annual burden hours: 31 hours.

Abstract: The information collection is required for NARA to meet its obligations under 44 U.S.C. 2112(a)(3) to submit a report to Congress before accepting a new Presidential library facility. The report contains information that can be furnished only by the foundation or other entity responsible for building the facility and establishing the library endowment.

Sheena Burrell,

Executive for Information Services/CIO.

[FR Doc. 2024–00111 Filed 1–5–24; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2023–0094]

Information Collection: Solicitation of Non-Power Operator Licensing Examination Data

Correction

In notice document 2023–28880 appearing on page 488 in the issue of Thursday, January 4, 2024, make the following correction:

On page 488 in the first column, after the **DATES** heading, in the first and second lines, ''January 4, 2024'' should read ''February 5, 2024''.

[FR Doc. C1–2023–28880 Filed 1–5–24; 8:45 am]

BILLING CODE 0099–10–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–338 and 50–339; NRC–2020–0201]

Virginia Electric and Power Company; North Anna Power Station Units 1 and 2; Draft Environmental Impact Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for comment; public comment meetings; opportunity to request a hearing and to petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft environmental impact statement (DEIS), published as NUREG–1437, Supplement 7a, Second Renewal, ''Site-Specific Environmental Impact Statement for License Renewal of Nuclear Plants Regarding Subsequent License Renewal for North Anna Power Station Units 1 and 2, Draft Report for Comment.'' This DEIS supersedes NUREG–1437, Supplement 7, Second Renewal, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 7, Second Renewal, Regarding Subsequent License Renewal for North Anna Power Station Units 1 and 2, Draft Report for Comment,'' published in August 2021. North Anna Power Station Units 1 and 2 (North Anna) are located in Louisa County, Virginia. Possible alternatives to the proposed action of subsequent license renewal for North Anna include the no-action alternative and reasonable replacement power alternatives. A new notice of opportunity to request a hearing and petition for leave to intervene—limited to contentions based on new information in the DEIS—is also being issued.

DATES: The NRC will hold a webinar on the DEIS, including a presentation on the preliminary recommendation in the DEIS and a transcribed public comment session. The webinar will be held January 30, 2024, at 1 p.m. eastern time (ET). NRC is also planning an in-person meeting during the DEIS comment period. The meeting details will be posted on the NRC's Public Meeting Schedule at: *https://www.nrc.gov/pmns/mtg.* Members of the public are invited to submit comments on the DEIS by February 22, 2024. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Requests for a hearing or petitions for leave to intervene must be filed by March 8, 2024.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0201. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to:* Comments may be submitted to the NRC electronically using the email address *NorthAnnaEnvironmental@nrc.gov.*
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Tam Tran, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3617; email: *Tam.Tran@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2020–0201 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0201.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* NUREG–1437, Supplement 7a, Second Renewal, ''Site-Specific Environmental Impact Statement for License Renewal of Nuclear Plants Regarding Subsequent License Renewal for North Anna Power Station Units 1 and 2, Draft Report for Comment,'' is available in ADAMS under Accession No. ML23339A047.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. ET, Monday through Friday, except Federal holidays.
- *Public Library:* A copy of the DEIS is available for public review at the Louisa Library, 881 Davis Hwy, Mineral, VA 23117.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2020–0201 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

The NRC is issuing for public comment a draft environmental impact statement (DEIS), published as NUREG–1437, Supplement 7a, Second Renewal, ''Site-Specific Environmental Impact Statement for License Renewal of Nuclear Plants Regarding Subsequent License Renewal for North Anna Power Station Units 1 and 2, Draft Report for Comment.'' The DEIS supersedes a draft supplemental environmental impact statement (DSEIS) published as NUREG–1437, Supplement 7, Second Renewal, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 7, Second Renewal, Regarding Subsequent License Renewal for North Anna Power Station Units 1 and 2, Draft Report for Comment'' (ADAMS Accession No. ML21228A084) published for comment on August 25, 2021 (86 FR 47525).

The DEIS supersedes the August 2021 DSEIS and includes the NRC staff's site-specific evaluation of the environmental impacts of subsequent license renewal (SLR) for North Anna for each of the environmental issues that were previously dispositioned as Category 1 issues (generic to all or a distinct subset of nuclear power plants) in the August 2021 DSEIS consistent with the list of Category 1 issues in Table B–1 in appendix B to subpart A of title 10 of the *Code of Federal Regulations* (10 CFR) part 51 and NUREG–1437, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants,'' Revision 1, Final Report (June 2013). The DEIS considers information contained in the Virginia Electric and Power Company (Dominion, the applicant) September 28, 2022, submittal, which supplemented its environmental report in Dominion's 2020 SLR application. The DEIS also considers whether there is significant new information that would change the NRC staff's conclusions concerning Category 2 issues (specific to individual nuclear power plants) in the August 2021 DSEIS. The NRC staff prepared the DEIS in accordance with the Commission's decisions in Commission Legal Issuance (CLI)–22–02 (ADAMS Accession No. ML22055A496) and CLI–22–03 (ADAMS Accession No. ML22055A527), both dated February 24, 2022. Based on the site-specific evaluation provided in the DEIS, the NRC staff's preliminary recommendation is that the adverse environmental impacts of SLR for North Anna (*i.e.,* the continued operation of North Anna for a period of 20 years beyond the current renewed license expiration dates) are not so great that preserving the option of SLR for energy-planning decision-makers would be unreasonable. The NRC staff based its recommendation on the applicant's environmental report, as supplemented, the NRC staff's consultations with Federal, State, Tribal, and local government agencies, the NRC staff's independent environmental review, as documented in the DEIS, and the NRC staff's consideration of public comments.

III. Opportunity To Request a Hearing and Petition for Leave To Intervene

As the Commission directed in CLI–22–03, a new notice of opportunity to request a hearing and petition for leave

to intervene—limited to contentions based on new information discussed in the DEIS—is being issued.

Within 60 days after the date of publication of this notice, any person (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult 10 CFR 2.309. If a petition is filed, the presiding officer will rule on the petition and, if appropriate, a notice of hearing will be issued.

Petitions must be filed no later than 60 days from the date of publication of this notice in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii).

A State, local governmental body, federally recognized Native American Tribe, or designated agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h) no later than 60 days from the date of publication of this notice. Alternatively, a State, local governmental body, federally recognized Native American Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

For information about filing a petition and about participation by a person not a party under 10 CFR 2.315, see ADAMS Accession No. ML20340A053 (*https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML20340A053*) and on the NRC's public website at *https://www.nrc.gov/about-nrc/regulatory/adjudicatory/hearing.html#participate.*

IV. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including documents filed by an interested State, local governmental body, federally recognized Native American Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as further discussed, is granted. Detailed guidance on electronic submissions is located in the ''Guidance for Electronic Submissions to the NRC'' (ADAMS Accession No. ML13031A056) and on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html.*

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *Hearing.Docket@nrc.gov*, or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* After a digital ID certificate is obtained and a docket created, the participant must submit adjudicatory documents in Portable Document Format. Guidance on submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. ET on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., ET, Monday through Friday, except Federal holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)-(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as previously described, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

Dated: January 3, 2024.

For the Nuclear Regulatory Commission.

Christopher M. Regan,

Director, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Materials Safety and Safeguards.

[FR Doc. 2024–00147 Filed 1–5–24; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2024–152 and CP2024–158; MC2024–153 and CP2024–159; MC2024–154 and CP2024–160; MC2024–155 and CP2024–161; MC2024–156 and CP2024–162; MC2024–157 and CP2024–163]

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:* January 9, 2024.

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

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).:* MC2024–152 and CP2024–158; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 164 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 29, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Samuel Robinson; *Comments Due:* January 9, 2024.

2. *Docket No(s).:* MC2024–153 and CP2024–159; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 165 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 29, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Samuel Robinson; *Comments Due:* January 9, 2024.

3. *Docket No(s).:* MC2024–154 and CP2024–160; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 166 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 29, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Alireza Motameni; *Comments Due:* January 9, 2024.

4. *Docket No(s).:* MC2024–155 and CP2024–161; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 41 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 29, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Samuel Robinson; *Comments Due:* January 9, 2024.

5. *Docket No(s).:* MC2024–156 and CP2024–162; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 167 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 29, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Arif Hafiz; *Comments Due:* January 9, 2024.

6. *Docket No(s).:* MC2024–157 and CP2024–163; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 168 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 29, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Arif Hafiz; *Comments Due:* January 9, 2024.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2024–00093 Filed 1–5–24; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. ACR2023; Order No. 6909]

FY 2023 Annual Compliance Report

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Postal Service has filed an Annual Compliance Report on the costs, revenues, rates, and quality of service associated with its products in fiscal year 2023. Within 90 days, the Commission must evaluate that information and issue its determination as to whether rates were compliant and whether service standards in effect were met. To assist in this, the Commission seeks public comments on the Postal Service's Annual Compliance Report.

[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).

DATES: *Comments are due:* January 30, 2024. *Reply Comments are due:* February 13, 2024.

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:

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I. Introduction

On December 29, 2023, the Postal Service filed with the Commission its Annual Compliance Report (ACR) for fiscal year (FY) 2023, pursuant to 39 U.S.C. 3652.[1] Section 3652 requires submission of data and information on the costs, revenues, rates, and quality of service associated with postal products within 90 days of the closing of each fiscal year. In conformance with other statutory provisions and Commission rules, the ACR includes the Postal Service's FY 2023 Comprehensive Statement on Postal Operations, its FY 2023 annual report to the Secretary of the Treasury on the Competitive Products Fund, and certain related Competitive Products Fund material. *See respectively,* 39 U.S.C. 3652(g), 39 U.S.C. 2011(i), and 39 CFR 3060.20–23; FY 2023 ACR at 7. In line with past practice, some of the material in the FY 2023 ACR appears in non-public annexes.

The filing begins a review process that results in an Annual Compliance Determination (ACD) issued by the Commission to determine whether Postal Service products offered during FY 2023 were in compliance with applicable title 39 requirements.

II. Overview of the Postal Service's FY 2023 ACR

Contents of the filing. The Postal Service's FY 2023 ACR consists of a 112-page narrative; extensive additional material appended as separate folders and identified in Attachment One; and an application for non-public treatment of certain materials, along with supporting rationale, filed as Attachment Two. The filing also includes the Comprehensive Statement,[2] Report to the Secretary of the Treasury, and information on the Competitive Products Fund filed in response to Commission rules. This material has been filed electronically with the Commission.

Scope of the filing. The material appended to the narrative consists of: (1) domestic product costing material filed on an annual basis summarized in the Cost and Revenue Analysis (CRA); (2) comparable international costing material summarized in the International Cost and Revenue Analysis (ICRA); (3) worksharing-related cost studies; and (4) billing determinant information for both domestic and international mail. FY 2023 ACR at 6–7. Inclusion of these four data sets is consistent with the Postal Service's past ACR practices. As with past ACRs, the Postal Service has split certain materials into public and non-public versions. *Id.* at 7.

''Roadmap'' document. A roadmap to the FY 2023 ACR can be found in Library Reference USPS–FY23–9. *Id.* This document provides brief descriptions of the materials submitted, as well as the flow of inputs and outputs among them; a discussion of differences in methodology relative to Commission methodologies in last year's ACD; and a list of special studies and a discussion of obsolescence, as required by Commission rule 39 CFR 3050.12. *Id.* at 7–8.

Methodology. The Postal Service states that it has adhered to the methodologies historically used by the Commission subject to changes identified and discussed in Library Reference USPS–FY23–9 and in prefaces accompanying the appended folders.[3]

Market Dominant product-by-product costs, revenues, and volumes. Comprehensive cost, revenue, and volume data for all Market Dominant products of general applicability are shown directly in the FY 2023 CRA or ICRA. FY 2023 ACR at 11.

The FY 2023 ACR includes a discussion by class of each Market Dominant product, including costs, revenues, and volumes, workshare discounts, and passthroughs responsive to 39 U.S.C. 3652(b), and FY 2023 promotions. *Id.* at 11–47.

Service performance. The Postal Service notes that the Commission adopted several revisions related to the rules on periodic reporting of service performance measurement and customer satisfaction in FY 2023.[4] Responsive information appears in Library Reference USPS–FY23–29. FY 2023 ACR at 48. In addition, the FY 2023 ACR discusses the Postal Service's 10-year strategic plan and postal product on-time performance. *Id.* at 48–57.

Customer satisfaction. The FY 2023 ACR discusses the Postal Service's approach for measuring customer experience and satisfaction; discusses survey modifications; describes the methodology; presents a table with survey results; compares the results from FY 2022 to FY 2023; and provides information regarding consumer access to postal services. *Id.* at 57–95.

Competitive products. The FY 2023 ACR provides costs, revenues, and volumes for Competitive products of general applicability in the FY 2023 CRA or ICRA. For Competitive products not of general applicability, data are provided in non-public Library References USPS–FY23–NP2 and USPS–FY23–NP27. *Id.* at 96. The FY 2023 ACR also addresses the Competitive product pricing standards of 39 U.S.C. 3633. *Id.* at 96–107.

Market tests; nonpostal services. The Postal Service discusses one market dominant market test conducted during FY 2023 as well as nonpostal services. *Id.* at 108–110.

III. Procedural Steps

Statutory requirements. Section 3653 of title 39 requires the Commission to provide interested persons with an opportunity to comment on the ACR and to appoint an officer of the Commission (Public Representative) to represent the interests of the general

[1] United States Postal Service FY 2023 Annual Compliance Report, December 29, 2023, at 1 (FY 2023 ACR). Public portions of the Postal Service's filing are available on the Commission's website at *http://www.prc.gov.*

[2] In years prior to 2013, the Commission reviewed the Postal Service's reports prepared pursuant to 39 U.S.C. 2803 and 39 U.S.C. 2804 (filed as the Comprehensive Statement by the Postal Service) in its ACD. However, as it has for the past several years, the Commission intends to issue a separate notice soliciting comments on the Comprehensive Statement and provide its related analysis in a separate report from the ACD.

[3] *Id.* at 8. The Commission notes that, on December 8, 2023, the Postal Service filed a motion requesting a temporary waiver of 39 CFR 3050.10 with respect to reporting disaggregated costs for USPS Ground Advantage in the FY 2023 ACR. *See* Motion of the United States Postal Service for Waiver of Rule 3050.10 with Respect to Disaggregated Ground Advantage Costs, December 8, 2023 (Motion). The Commission has taken the Motion under advisement. *See* Order Taking Under Advisement Postal Service Motion for Waiver of Rule 39 CFR 3050.10 Regarding Disaggregated USPS Ground Advantage Cost Information, December 22, 2023 (Order No. 6894).

[4] *Id.* at 48. *See* Docket No. RM2022–7, Order Revising Rules for Periodic Reporting of Service Performance, February 9, 2023 (Order No. 6439).

public. The Commission hereby solicits public comment on the Postal Service's FY 2023 ACR and on whether any rates or fees in effect during FY 2023 (for products individually or collectively) were not in compliance with applicable provisions of chapter 36 of title 39 or Commission regulations promulgated thereunder. Commenters addressing Market Dominant products are referred in particular to the applicable requirements (39 U.S.C. 3622(d) and (e) and 39 U.S.C. 3626); objectives (39 U.S.C. 3622(b)); and factors (39 U.S.C. 3622(c)). Commenters addressing Competitive products are referred to 39 U.S.C. 3633.

The Commission also invites public comment on the cost coverage matters the Postal Service addresses in its filing; service performance results; levels of customer satisfaction achieved; and such other matters that may be relevant to the Commission's review.

Access to filing. The Commission has posted the publicly available portions of the FY 2023 ACR on its website at *http://www.prc.gov.* Interested persons may request access to non-public materials pursuant to 39 CFR 3011.301.

Comment deadlines. Comments by interested persons are due on or before January 30, 2024. Reply comments are due on or before February 13, 2024. The Commission, upon completion of its review of the FY 2023 ACR, comments, and other data and information submitted in this proceeding, will issue its ACD.

Public Representative. Kenneth R. Moeller is designated to serve as the Public Representative to represent the interests of the general public in this proceeding. Neither the Public Representative nor any additional persons assigned to assist him shall participate in or advise as to any Commission decision in this proceeding other than in his or her designated capacity.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. ACR2023 to consider matters raised by the United States Postal Service's FY 2023 Annual Compliance Report.

2. Pursuant to 39 U.S.C. 505, the Commission appoints Kenneth R. Moeller as an officer of the Commission (Public Representative) in this proceeding to represent the interests of the general public.

3. Comments on the United States Postal Service's FY 2023 Annual Compliance Report to the Commission are due on or before January 30, 2024.

4. Reply comments are due on or before February 13, 2024.

5. The Secretary shall arrange for publication of this Order in the **Federal Register**.

By the Commission.

Erica A. Barker,

Secretary.

[FR Doc. 2024–00092 Filed 1–5–24; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99259; File No. SR–MEMX–2023–38]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Fee Schedule To Establish an Options Regulatory Fee (''ORF'')

January 2, 2024.

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 December 20, 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) to establish an Options Regulatory Fee (''ORF'') that would automatically sunset on May 31, 2024. The Exchange proposes to implement the changes to the Fee Schedule pursuant to this proposal immediately. The text of the proposed rule change is provided in Exhibit 5.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to establish an ORF in the amount of $0.0015 per contract side, effective immediately.[4] The amount of the proposed fee is based on historical industry volume, projected volumes on the Exchange, and projected Exchange regulatory costs. The Exchange's proposed ORF should balance the Exchange's regulatory revenue against the anticipated regulatory costs. As discussed more fully below, the Exchange proposes that the ORF will automatically sunset on May 31, 2024.

MEMX previously filed a proposal to establish an ORF in the amount of $0.0015 per contract side on September 27, 2023 (the ''Initial ORF Filing''),[5] which was immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.[6] The Initial ORF Filing was published for comment in the **Federal Register** on October 4, 2023.[7] The Commission received no comments on the Initial ORF Filing before November 24, 2023. On that date, the Commission issued a Suspension of and Order Instituting Proceedings to Determine whether to Approve or Disapprove a Proposed Rule Change to Amend its Fee Schedule to Establish an Options Regulatory Fee (''the OIP'') and requested public comment and additional information on various aspects of the Initial ORF Filing.[8] To date, the Commission has

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Rule 1.5(p).

[4] The Exchange initially filed the proposed Fee Schedule changes on December 1, 2023 (SR–MEMX–2023–33). On December 13, 2023, the Exchange withdrew that filing and submitted SR–MEMX–2023–34. On December 19, 2023, the Exchange withdrew SR–MEMX–2023–34 and submitted SR–MEMX–2023–36. On December 20, 2023, the Exchange withdrew SR–MEMX–2023–36 and submitted this filing.

[5] See Securities Exchange Act Release No. 98585 (September 28, 2023), 88 FR 68692 (October 4, 2023) (SR–MEMX–2023–25).

[6] 15 U.S.C. 78s(b)(3)(A). A proposed rule change may take effect upon filing with the Commission if it is designated by the exchange as ''establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization.'' 15 U.S.C. 78s(b)(3)(A)(ii).

[7] *See supra* note 5.

[8] *See* Securities Exchange Act Release No. 99017 (November 24, 2023), 88 FR 83590 (November 30,

Continued

received no comment letters in response to the OIP. The Exchange withdrew the Initial ORF Filing on December 1, 2023 and submitted a new proposal for immediate effectiveness (''Second ORF Filing''). In order to make certain clarifying changes, the Exchange withdrew the Second ORF Filing on December 13, 2023, and submitted a third proposal for immediate effectiveness (''Third ORF Filing''). Again, in order to make certain clarifying changes, the Exchange withdrew the Third ORF Filing on December 19, 2023, and submitted a fourth proposal for immediate effectiveness (''Fourth ORF Filing''). Finally, on December 20, 2023, in order to correct an inadvertent administrative error, the Exchange withdrew the Fourth ORF Filing and submitted this proposal for immediate effectiveness (''Fifth ORF Filing''). The Second, Third, Fourth, and this Fifth ORF Filing propose the same fee as in the Initial ORF Filing, but with a modified sunset date of May 31, 2024, which is four months prior to the proposed sunset date in the Initial ORF Filing. Additionally, this filing responds to certain questions and points raised in the OIP.

As explained in the Initial ORF Filing, the per-contract ORF will be collected by the Options Clearing Corporation (''OCC'') on behalf of the Exchange for each options transaction, cleared or ultimately cleared by an Exchange member in the ''customer'' range, regardless of the exchange on which the transaction occurs. The ORF is collected from either: (1) a Member that was the ultimate clearing firm [9] for the transaction; or (2) a non-Member that was the ultimate clearing firm where a Member was the executing clearing firm [10] for the transaction.

To illustrate how the ORF will be assessed and collected, the Exchange provides the following set of examples.

1. For all transactions executed on the Exchange, if the ultimate clearing firm is a Member of the Exchange, the ORF is assessed to and collected from that Member. If the ultimate clearing firm is not a Member of the Exchange, the ORF is collected from that non-Member clearing firm but assessed to the executing clearing firm.

2. If the transaction is executed on an away exchange, the ORF is only assessed and collected if either the executing clearing firm or ultimate clearing firm are Members of the Exchange. If the ultimate clearing firm is a Member of the Exchange, the ORF is assessed to and collected from that ultimate clearing firm. If the ultimate clearing firm is not a Member of the Exchange, the ORF is assessed to the executing clearing firm (again, only if that executing clearing firm is a Member of the Exchange), and collected from the ultimate clearing firm. Thus, to reiterate, if neither the executing clearing firm nor the ultimate clearing firm are members of the Exchange, no ORF is assessed or collected.

Finally, the Exchange will not assess the ORF on outbound linkage trades. ''Linkage trades'' are tagged in the Exchange's system, so the Exchange can distinguish them from other trades. A customer order routed to another exchange results in the appearance of two customer trades, one from the originating exchange and one from the recipient exchange. Charging ORF on both trades could result in double-billing of ORF for a single customer order, thus the Exchange will not assess ORF on outbound linkage trades in a linkage scenario.[11]

As a practical matter, when a transaction that is subject to the ORF is not executed on the Exchange, the Exchange lacks the information necessary to identify the order entering member for that transaction. There are countless order entering market participants, and each day such participants can drop their connection to one market center and establish themselves as participants on another. For these reasons, it is not possible for the Exchange to identify, and thus assess fees such as an ORF, on order entering participants on away markets on a given trading day.

Clearing members, however, are distinguished from order entering participants because they remain identified to the Exchange on information the Exchange receives from the OCC regardless of the identity of the order entering participant, their location, and the market center on which they execute transactions. Therefore, the Exchange believes it is more efficient for the operation of the Exchange and for the marketplace as a whole to collect the ORF from clearing members. Additionally, this collection method was originally instituted for the benefit of clearing firms that desired to have the ORF be collected from the clearing firm that ultimately clears the transaction. The clearing firms may then choose to pass through all, a portion, or none of the cost of the ORF to its customers, *i.e.,* the entering firms.

As discussed below, the Exchange believes it is appropriate to charge the ORF only to transactions that clear as customer at the OCC. The Exchange believes that its broad regulatory responsibilities with respect to a Member's activities support applying the ORF to transactions cleared but not executed by a Member. The Exchange's regulatory responsibilities are the same regardless of whether a Member enters an order that executes or clears a transaction executed on behalf of another party. The Exchange will regularly review all such activities, including performing surveillance for position limit violations, end of day and intra-day manipulation, front-running, contrary exercise advice violations and insider trading. These activities span across multiple exchanges.

The ORF is designed to recover a material portion of the costs to the Exchange of the supervision and regulation of Members' customer options business, including performing routine surveillances and investigations, as well as policy, rulemaking, interpretive and enforcement activities. The Exchange believes that revenue generated from the ORF, when combined with all of the Exchange's other regulatory fees and fines, will

2023) (SR–MEMX–2023–25). Additionally, on November 24, 2023, solely for the purposes of consistent billing for the entire month of November 2023, the Exchange filed SR–MEMX–2023–31 with the Commission, which proposed to keep the Initial ORF rate of $0.0015 per contract side that had been charged since September 27th in place for November 24 through November 30, 2023. *See* Securities Exchange Act Release No. 99112 (December 7, 2023) (SR–MEMX–2023–31). The Exchange notes that in connection with this filing, it is removing language from its Fee Schedule indicating the Initial ORF rate would be in place through November 30, as this language is now obsolete.

[9] The Exchange takes into account any CMTA transfers when determining the ultimate clearing firm for a transaction. CMTA or Clearing Member Trade Assignment is a form of ''give up'' whereby the position will be assigned to a specific clearing firm at the OCC.

[10] Throughout this filing, ''executing clearing firm'' means the clearing firm through which the entering broker indicated that the transaction would be cleared at the time it entered the original order which executed, and that clearing firm could be a designated ''give up'', if applicable. The executing clearing firm may be the ultimate clearing firm if no CMTA transfer occurs. If a CMTA transfer occurs, however, the ultimate clearing firm would be the clearing firm that the position was transferred to for clearing via CMTA.

[11] To clarify, as stated previously, the Exchange will assess and collect the ORF for each customer options transaction that is cleared by a Member of the Exchange, regardless of where the transaction occurs. As such, transactions may fall into this category that originated from customer orders entered on the Exchange that were routed to and executed on an away market pursuant to the Options Linkage Plan. However, the Exchange will not assess the ORF in this instance on the original entering broker on MEMX Options, which would result in a potential double billing. Instead, the Exchange will only assess and collect from the ultimate clearing firm, and only if the ultimate clearing firm or the executing clearing firm is a MEMX Options Member (because the transaction ultimately occurs on an away market).

cover a material portion, but not all, of the Exchange's regulatory costs. Regulatory costs include direct regulatory expenses and certain indirect expenses for work allocated in support of the regulatory function. The direct expenses include in-house and third-party service provider costs to support the day-to-day regulatory work such as surveillance, investigations and examinations. The indirect expenses include support from personnel in such areas as human resources, legal, information technology, facilities and accounting as well as shared costs necessary to operate the Exchange and to carry out its regulatory function, such as hardware, data center costs and connectivity. The Exchange acknowledges that these indirect expenses are also allocated towards other business operations, such as providing connectivity and market data services, for which the Exchange has also conducted a cost-based analysis. As such, when analyzing the indirect expenses associated with its regulatory program, the Exchange did not double-count any expenses, but instead, allocated a portion of the cost not already allocated to other fees imposed by the Exchange. Indirect expenses are anticipated to be approximately 24% of the total regulatory costs for 2023 and 2024. Thus, direct expenses are anticipated to be approximately 76% of the total regulatory costs for 2023 and 2024. The Exchange notes that its regulatory responsibilities with respect to Member compliance with options sales practice rules have been allocated to the Financial Industry Regulatory Authority (''FINRA'') under a 17d–2 Agreement. The ORF is not designed to cover the cost of options sales practice regulation. Finally, the Exchange notes that it takes into account all regulatory sources of funding, including fines collected by the Exchange in connection with disciplinary matters, when determining the appropriate ORF rate.

The Exchange will monitor the amount of revenue collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, does not exceed the Exchange's total regulatory costs. More specifically, the Exchange will ensure that revenue generated from ORF not exceed 75% of total annual regulatory costs. The Exchange will monitor regulatory costs and revenues at a minimum on a semi-annual basis. If the Exchange determines regulatory revenues exceed or are insufficient to cover a material portion of its regulatory costs, the Exchange will adjust the ORF by submitting a fee change filing to the Commission. Going forward, the Exchange will notify Members of adjustments to the ORF via regulatory circular at least 30 calendar days prior to the effective date of the change.

The Exchange believes it is reasonable and appropriate for the Exchange to charge the ORF for customer options transactions regardless of the exchange on which the transactions occur. The Exchange has a statutory obligation to enforce compliance by Members and their associated persons under the Act and the rules of the Exchange and to surveil for other manipulative conduct by market participants trading on the Exchange. The Exchange will not be able to effectively surveil for such conduct without looking at and evaluating activity across all options markets. Many of the Exchange's market surveillance programs require the Exchange to look at and evaluate activity across all options markets, such as surveillance for position limit violations, end of day and intra-day manipulation, front-running and contrary exercise advice violations/expiring exercise declarations. While much of this activity relates to the execution of orders, the ORF is assessed on and collected from clearing firms. The Exchange, because it lacks access to information on the identity of the entering firm for executions that occur on away markets, believes it is appropriate to assess the ORF on its Members' clearing activity, based on information the Exchange receives from the OCC, including for away market activity. Among other reasons, doing so better and more accurately captures activity that occurs away from the Exchange but which may relate to activity occurring on the Exchange. Without reviewing activity on a market-wide basis, the Exchange would not be able to effectively identify potentially problematic cross-market activity, with a portion occurring on other options exchanges and a portion on the Exchange. Again, the Exchange reiterates that it will not *collect* the ORF on executions that occur on away markets that are cleared by non-Members, except for the limited scenario where a Member clears a transaction and ultimately ''gives-up'' the trade to a non-Member via CMTA.[12] The Exchange believes that *assessing* the ORF on Member clearing firms equitably distributes the collection of the ORF in a fair and reasonable manner.

In addition to its own surveillance programs, the Exchange will work with other SROs and exchanges on intermarket surveillance related issues in connection with its regulatory program for options. Specifically, the Exchange and other options exchanges are required to populate a consolidated options audit trail (''COATS'')[13] system in order to surveil a Member's activities across markets. Further, through its participation in the Intermarket Surveillance Group (''ISG''),[14] the Exchange will share information and coordinate inquiries and investigations with other exchanges designed to address potential intermarket manipulation and trading abuses. The Exchange's participation in ISG helps it to satisfy the requirement that it has coordinated surveillance with markets on which security futures are traded and markets on which any security underlying security futures are traded to detect manipulation and insider trading.[15]

The Exchange believes that charging the ORF across markets will avoid having Members direct their trades to other markets in order to avoid the fee and to thereby avoid paying for their fair share for regulation. If the ORF did not apply to activity across markets then a Member would send their orders to the least cost, least regulated exchange (to the extent permissible under the Options Linkage plan, which, among other requirements, prohibits trading through of better priced quotations). Other exchanges do impose a similar fee on their members' activity, and their fees will extend to include the activities of their own members on the Exchange. In other words, since MEMX Options launched on September 27, 2023, other exchanges have charged the ORF for executions occurring on MEMX Options cleared by their customers.[16] In fact, all

[12] To reiterate, in this instance, the ORF would be collected from the non-Member ultimate CMTA clearing firm but assessed to the Member executing clearing firm.

[13] COATS effectively enhances intermarket options surveillance by enabling the options exchanges to reconstruct the market promptly to effectively surveil certain rules.

[14] ISG is an industry organization formed in 1983 to coordinate intermarket surveillance among the SROs by co-operatively sharing regulatory information pursuant to a written agreement between the parties. The goal of the ISG's information sharing is to coordinate regulatory efforts to address potential intermarket trading abuses and manipulations.

[15] *See* Section 6(h)(3)(I) of the Act.

[16] *See* Securities Exchange Act Release Nos. 58817 (October 20, 2008), 73 FR 63744 (October 27, 2008) (SR–CBOE–2008–05) (notice of filing and immediate effectiveness of Cboe Exchange, Inc. (''CBOE'') adopting an ORF applicable to transactions across all options exchanges); 61133 (December 9, 2009), 74 FR 66715 (December 16,

Continued

sixteen (16) registered options exchanges currently impose ORF on their members, and, similar to the Exchange, the majority of the options exchanges launched over the last decade have implemented an ORF on the day of launch or shortly thereafter in order to properly fund their regulatory programs.[17]

The Exchange notes that there is established precedent for an SRO charging a fee across markets, namely, FINRA's Trading Activity Fee [18] and the ORF assessed by other options exchanges including, but not limited to, NYSE Amex, NYSE Arca, Cboe, BZX, EDGX, Phlx, Nasdaq ISE, Nasdaq GEMX, MIAX and BOX.[19] While the Exchange does not have all the same regulatory responsibilities as FINRA, the Exchange believes that, like other exchanges that have adopted an ORF, its broad regulatory responsibilities with respect to a Member's activities, irrespective of where their transactions take place, supports a regulatory fee applicable to transactions on other markets. Unlike FINRA's Trading Activity Fee, the ORF would apply only to a Member's customer options transactions.

Additionally, the Exchange proposes to specify in the Fee Schedule that the Exchange may only increase or decrease the ORF semi-annually. In addition to submitting a proposed rule change to the Commission as required by the Act to increase or decrease the ORF, the Exchange will notify participants via a Regulatory Circular of any anticipated change in the amount of the fee at least 30 calendar days prior to the effective date of the change. The Exchange believes that by providing guidance on the timing of any changes to the ORF, the Exchange would make it easier for participants to ensure their systems are configured to properly account for the ORF.

Lastly, the Exchange recognizes that in 2019, the Commission issued suspensions of and orders instituting proceedings to determine whether to approve or disapprove a proposed rule change to modify the Options Regulatory Fee of NYSE American, NYSE Arca, MIAX, MIAX Pearl, MIAX Emerald, Cboe, Cboe EDGX Options, and C2.[20] Each of those exchanges had filed to increase their ORF, and the Commission indicated that each of those filings lacked detail and specificity, signaling that more information was needed to speak to whether the proposed increased ORFs were reasonable, equitably allocated and not unfairly discriminatory, particularly given that the ORF is assessed on transactions that clear in the ''customer'' range and regardless of the exchange on which the transaction occurs. The Commission also noted that the filings provided only broad general statements regarding options transaction volume and did not provide any information on those exchanges' historic or projected options regulatory costs (including the costs of regulating activity that cleared in the ''customer'' range and the costs of regulating activity that occurred off exchange), the amount of regulatory revenue they had generated and expected to generate from the ORF as well as other sources, or the ''material portion'' of options regulatory expenses that they sought to recover from the ORF. Each of those exchanges withdrew their filings, but continue charging ORF today as discussed above. Since that time, MEMX Options is the first new options exchange to launch and as noted previously, its Initial ORF Filing was also suspended.[21] Unlike its competitors noted above, however, the Exchange is the only exchange that does not have a previously implemented ORF to continue charging notwithstanding said suspensions. As such, the Exchange would be at an unfair competitive disadvantage if it were not allowed to charge the ORF to recover a material portion, but not all, of the Exchange's regulatory costs for the supervision and regulation of activity of its Members which as noted above, is charged by all sixteen (16) currently operating options exchanges.

In the OIP, the Commission emphasized the potential lack of sufficiently detailed ''quantitative and qualitative evidence'' in support of the Exchange's proposal. As an example, as it relates to the Exchange's imposition of ORF on executions cleared in a customer capacity, the Commission suggested the Exchange provide, amongst other data points, the percentage of volume expected to clear

2009) (SR–Phlx–2009–100) (notice of filing and immediate effectiveness of Nasdaq PHLX LLC (''Phlx'') adopting an ORF applicable to transactions across all options exchanges); 61154 (December 11, 2009), 74 FR 67278 (December 18, 2009) (SR–ISE–2009–105) (notice of filing and immediate effectiveness of Nasdaq ISE, LLC (''ISE'') adopting an ORF applicable to transactions across all options exchanges); 61388 (January 20, 2010), 75 FR 4431 (January 27, 2010) (SR–BX–2010–001) (notice of filing and immediate effectiveness of Nasdaq OMX BX, Inc. (''BX'') adopting an ORF applicable to transactions across all options exchanges); 70200 (August 14, 2013) 78 FR 51242 (August 20, 2013)(SR–Topaz–2013–01)) (notice of filing and immediate effectiveness of Nasdaq GEMX, LLC (''GEMX''), formerly known as ISE Gemini and Topaz Exchange, adopting an ORF applicable to transactions across all options exchanges); 64400 (May 4, 2011), 76 FR 27118 (May 10, 2011) (SR–NYSEAmex–2011–27) (notice of filing and immediate effectiveness of NYSE Amex LLC (''NYSE AMEX'') adopting an ORF applicable to transactions across all options exchanges); 64399 (May 4, 2011), 76 FR 27114 (May 10, 2011) (SR–NYSEArca–2011–20) (notice of filing and immediate effectiveness of NYSE Arca, Inc. (''NYSE Arca'') adopting an ORF applicable to transactions across all options exchanges); 65913 (December 8, 2011), 76 FR 77883 (December 14, 2011) (SR–NASDAQ–2011–163) (notice of filing and immediate effectiveness of Nasdaq Options Market (''NOM'') adopting an ORF applicable to transactions across all options exchanges); 66979 (May 14, 2012), 77 FR 29740 (May 18, 2012) (SR–BOX–2012–002) (notice of filing and immediate effectiveness of BOX Options Exchange LLC (''BOX'') adopting an ORF applicable to transactions across all options exchanges); 67596 (August 6, 2012), 77 FR 47902 (August 10, 2012) (SR–C2–2012–023) (notice of filing and immediate effectiveness of C2 Options Exchange, Inc. (''C2'') adopting an ORF applicable to transactions across all options exchanges); 68711 (January 23, 2013) 78 FR 6155 (January 29, 2013) (SR–MIAX–2013–01) (notice of filing and immediate effectiveness of Miami International Securities Exchange LLC (''MIAX'') adopting an ORF applicable to transactions across all options exchanges); 74214 (February 5, 2015), 80 FR 7665 (February 11, 2015) (SR–BATS–2015–08) (notice of filing and immediate effectiveness of Cboe BZX Exchange, Inc. (''BZX'') formerly known as BATS, adopting an ORF applicable to transactions across all options exchanges); 80025 (February 13, 2017) 82 FR 11081 (February 17, 2017) (SR–BatsEDGX–2017–04) (notice of filing and immediate effectiveness of Cboe EDGX Exchange, Inc. (''EDGX'') formerly known as Bats EDGX Exchange, Inc., adopting an ORF applicable to transactions across all options exchanges); 80875 (June 7, 2017) 82 FR 27096 (June 13, 2017) (SR–PEARL–2017–26) (notice of filing and immediate effectiveness of MIAX Pearl, LLC (''MIAX Pearl'') adopting an ORF applicable to transactions across all options exchanges); 85127 (February 13, 2019) 84 FR 5173 (February 20, 2019) (SR–MRX–2019–03) (notice of filing and immediate effectiveness of Nasdaq MRX, LLC (''MRX'') adopting an ORF applicable to transactions across all options exchanges); 85251 (March 6, 2019) 84 FR 8931 (March 12, 2019) (SR–EMERALD–2019–01) (notice of filing and immediate effectiveness of MIAX Emerald LLC (''MIAX Emerald'') adopting an ORF applicable to transactions across all options exchanges).

[17] MIAX Options—effective 1/2/13, launch 12/7/12; ISE Topaz—effective 8/5/13, launch same; MIAX Pearl—effective 2/6/17, launch same; MIAX Emerald—effective 3/1/19, launch same.

[18] *See* Securities Exchange Act Release No. 47946 (May 30, 2003), 68 FR 34021 (June 6, 2003) (SR–NASD–2002–148).

[19] *See supra* note 16.

[20] *See* Securities Exchange Act Release No. 87168 (September 30, 2019), 84 FR 53210 (October 4, 2019) (SR–Emerald–2019–29); Securities Exchange Act Release No. 87167 (September 30, 2019), 84 FR 53189 (October 4, 2019) (SR–PEARL–2019–23); Securities Exchange Act Release No. 87169 (September 30, 2019), 84 FR 53195 (October 4, 2019) (SR–MIAX–2019–35); Securities Exchange Act Release No. 87170 (September 30, 2019), 84 FR 53213 (October 4, 2019) (SR–CBOE–2019–040); Securities Exchange Act Release No. 87172 (September 30, 2019) 84 FR 53192 (October 4, 2019) (SR–CboeEDGX–2019–051); Securities Exchange Act Release No 87171 (September 30, 2019), 84 FR 53200 (October 4, 2019) (SR–C2–2019–018); Securities Exchange Act Release No. 86832 (August 30, 2019), 84 FR 46980 (September 6, 2019) (SR–NYSEArca–2019–49); Securities Exchange Act Release No. 86833 (August 30, 2019) 84 FR 47029 (September 6, 2019) (SR–NYSEAMER–2019–27).

[21] *See supra* note 8.

in the customer range both on and off Exchange compared to the percentage of volume expected to clear in a range other than customer both on and off Exchange; the percentage of the Exchange's regulatory budget that would be attributable to the regulation of orders that are expected to clear in the customer-range compared to the percentage of the Exchange's regulatory budget that would be attributable to orders that are expected to clear in a range other than customer; and the anticipated percentage of the Exchange's regulatory level of effort that would be attributable to the regulation of orders that are expected to clear in the customer range compared to the regulatory level of effort that would be attributable to orders that are expected to clear in a range other than customer.[22] While the Exchange could endeavor to ''project'' data points such as execution volumes separated by capacity on and off the Exchange and percentages of regulatory effort dedicated to the like, such an exercise would be futile. As a newly launched exchange, the Exchange simply does not have sufficient data (*i.e.,* fulsome execution records and regulatory surveillance data) in order to accurately make the projections noted by the Commission at this time. Again, however, while the Exchange commits to gathering this and other relevant data to inform its approach to the ORF after the sunset period, not being able to charge the ORF in the meantime puts the Exchange at an unfair disadvantage and ultimately discourages competition in the space.

As such, the Exchange proposes that the ORF proposed herein will automatically sunset on May 31, 2024, approximately six months after the operative date of this filing. The Exchange believes this will allow it the time to gather the necessary data, including its actual regulatory costs and revenues, as well as the cost of regulating executions that clear in a customer capacity and executions that occur on away markets, while also allowing it to adequately cover a portion of the projected costs associated with the regulation of its Members and avoid the unfair competitive disadvantage it would be placed at if it were disallowed to collect ORF during the time period needed to assess and collect data it does not have as a new options exchange. Such a process will inform the Exchange's approach to the ORF after the sunset date. To reiterate, as a new exchange, not having the opportunity to fund its regulatory program through the same regulatory fee charged by every other options exchange would place an undue competitive disadvantage upon the Exchange's regulatory program and options business as a whole. Further, the Exchange emphasizes that other exchanges will be charging ORF for transactions occurring on MEMX Options, and as such, it follows that the Exchange that is primarily responsible for monitoring those transactions should also be able to charge the ORF for activity occurring on its own market, as well as transactions it surveils on away markets.

The Exchange is proposing to establish an ORF in the amount of $0.0015 per contract side, to be operative immediately, and that will automatically sunset on May 31, 2024. The amount of the proposed fee is based on historical industry volume, projected volumes on the Exchange, and projected Exchange regulatory costs. As noted above, the Exchange will continually gather relevant data throughout the sunset period and review its ORF to ensure that the ORF, in combination with its other regulatory fees and fines, does not exceed regulatory costs. The Exchange believes that this proposal will permit the Exchange to cover a material portion of its regulatory costs, while not exceeding regulatory costs, and gather the necessary data to provide the Commission evidence to inform its approach to the ORF after the sunset period.

The Exchange notified current and future Members via a Regulatory Circular of the proposed ORF at least 30 calendar days prior to the proposed operative date, on August 1, 2023,[23] as well as on November 27, 2023,[24] as was necessary in light of the OIP. The Exchange believes that the prior notification to future market participants will ensure that the future market participants are prepared to configure their systems to properly account for the proposed ORF.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act[25] in general, and furthers the objectives of Section 6(b)(4) of the Act[26] in particular, in that it is an equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act[27] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The Exchange believes that establishing an ORF in the amount of $0.0015 is reasonable because the Exchange's collection of ORF needs to be balanced against the amount of projected regulatory costs incurred by the Exchange. The Exchange believes that the amount proposed herein will serve to balance the Exchange's regulatory revenue against the anticipated regulatory costs. Moreover, the proposed amount is lower than the amount of ORF assessed on other exchanges.[28] The Exchange notes that while certain options exchanges do charge a lower ORF than that proposed by the Exchange, each of these options exchanges is part of an exchange ''group'' (*i.e.,* affiliated with other options exchanges). In turn, each of these exchange groups charges more than two (2) to five (5) times the amount of ORF as a group when compared to the Exchange's proposed ORF rate.[29]

[22] *See* OIP, *supra* note 8, at 13 and 14.

[23] *See* MEMX Options Regulatory Notice 23–07, *https://info.memxtrading.com/regulatory-notice-23-07/memx-options-regulatory-fee/,* MEMX Options Regulatory Notice 23–10, *https://info.memxtrading.com/regulatory-notice-23-10/options-regulatory-fee-effective-date/,* and MEMX Options Regulatory Notice 23–15, *https://info.memxtrading.com/regulatory-notice-23-15/options-regulatory-fee-effective-date/.*

[24] *See* MEMX Options Regulatory Notice 23–22, *https://info.memxtrading.com/regulatory-notice-23-22/memx-options-regulatory-fee/.*

[25] 15 U.S.C. 78f(b).

[26] 15 U.S.C. 78f(b)(4).

[27] 15 U.S.C. 78f(b)(5).

[28] *See, e.g.,* NYSE Arca Options Fees and Charges, Options Regulatory Fee (''ORF'') and NYSE American Options Fees Schedule, Section VII(A), which provide that ORF is assessed at a rate of $0.0055 per contract for each respective exchange. *See also* Nasdaq PHLX, Options 7 Pricing Schedule, Section 6(D), which provides for an ORF rate of $0.0034 per contract, Cboe Options Fee Schedule, which provides an ORF rate of $0.0017 per contract, Nasdaq Options Market, Options 7 Pricing Schedule, Section 5, which provides an ORF rate of $0.0016 per contract, BOX Options Fee Schedule Section II(C), which provides an ORF rate of $0.00295 per contract, MIAX Options Fee Schedule, Section 2(b), which provides an ORF rate of $0.0019 per contract, MIAX Pearl Fee Schedule, Section 2(b), which provides an ORF rate of $0.0018 per contract.

[29] Each of MIAX Emerald, Cboe BZX Options, Cboe C2 Options, Cboe EDGX Options, Nasdaq ISE Gemini, Nasdaq ISE and Nasdaq BX Options charges a lower rate than $0.0015 per contract, which is the rate proposed by the Exchange. However, the Cboe exchanges, comprised of four options exchanges, charges an aggregate ORF rate of $0.0021 per contract (more than the Exchange's proposed rate), the MIAX exchanges, comprised of three options exchanges, charges an aggregate ORF rate of $0.0043 per contract (nearly 3 times the Exchange's proposed rate); and the Nasdaq

Continued

While the Exchange understands and agrees that each additional options exchange is its own legal entity with regulatory obligations under the Act to regulate its members, the Exchange also believes that there is significant scale that can be achieved for an exchange group that operates multiple exchanges, including with respect to regulation, and that it is this scale that allows such options exchanges to operate with such a low assessment of ORF. In other words, the initial fixed costs associated with implementing an exchange group's options regulatory program are scalable as additional options exchanges are launched by that exchange group.

The Exchange believes the proposed ORF is equitable and not unfairly discriminatory because it is objectively allocated to Members in that it is charged to all Members on all their transactions that clear as customer at the OCC. Moreover, the Exchange believes the ORF ensures fairness by assessing fees to those Members that are directly based on the amount of customer options business they conduct. Regulating customer trading activity is generally more labor intensive and requires greater expenditure of human and technical resources than regulating non-customer trading activity as the Exchange needs to review not only the trading activity on behalf of customers, but also the Member's relationship with its customers via more labor-intensive exam-based programs. As a result, the costs associated with administering the customer component of the Exchange's overall regulatory program are materially higher than the costs associated with administering the non-customer component (*e.g.,* Member proprietary transactions) of its regulatory program. Again, the Exchange intends to quantify the amount of time and resources spent on customer trading activity during the sunset period and take into account that information in order to inform its approach to the ORF thereafter.

The ORF is designed to recover a material portion of the costs of supervising and regulating Members' customer options business including performing routine surveillances and investigations, as well as policy, rulemaking, interpretive, and enforcement activities. The Exchange will monitor the amount of revenue collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, does not exceed the Exchange's total regulatory costs. The Exchange has designed the ORF to generate revenues that, when combined with all of the Exchange's other regulatory fees, will be less than 75% of the Exchange's regulatory costs, which is consistent with the Exchange's by-laws that state in Section 17.4(b): ''[a]ny Regulatory Funds shall not be used for non-regulatory purposes or distributed, advanced or allocated to any Company Member, but rather, shall be applied to fund regulatory operations of the Company (including surveillance and enforcement activities) . . .''.[30] In this regard, the Exchange believes that the amount of the fee is reasonable.

The Exchange believes that the proposal to limit changes to the ORF to twice a year with advance notice is reasonable because it will give participants certainty on the timing of changes, if any, and better enable them to properly account for ORF charges among their customers. The Exchange believes that limiting changes to the ORF to twice a year is equitable and not unfairly discriminatory because it will apply in the same manner to all Members that are subject to the ORF and provide them with additional advance notice of changes to that fee.

The Exchange believes that the proposal to collect the ORF from non-Members when such non-Members ultimately clear the transaction (that is, when the non-Member is the ''ultimate clearing firm'' for a transaction in which a Member was assessed the ORF), is an equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The Exchange notes that there is a material distinction between ''assessing'' the ORF and ''collecting'' the ORF. The Exchange does not assess the ORF to non-Members in any instance. For all executions, regardless of where they occur, the ORF is collected from the ultimate clearing firm, regardless of whether that clearing firm is a Member, but only if the original executing clearing firm is a Member. If the original executing clearing firm is a not a Member, no ORF is assessed or collected. If the original executing clearing firm is a Member, while the ORF may be collected from the ultimate non-Member clearing firm, the ORF is assessed to the Member executing clearing firm. The Exchange believes that this collection practice is reasonable and appropriate, given its broad regulatory responsibilities with respect to its Members activity, as well as the fact that this collection method was originally instituted for the benefit of clearing firms that desired to have the ORF be collected from the clearing firm that ultimately clears the transaction.

The Exchange believes that implementing the proposed ORF with a sunset date of approximately six months after the operative date is reasonable because it will give the Exchange adequate time to collect and analyze pertinent data while ensuring the Exchange, as a new entrant into equity options trading, is able to adequately fund its regulatory program to the same extent as its competitors. As noted above, the Exchange emphasizes that other exchanges will be charging ORF for transactions occurring on MEMX Options, and as such, it follows that the Exchange that is primarily responsible for monitoring those transactions should also be able to charge the ORF for activity occurring on its own market, as well as transactions it surveils on away markets.

The Exchange believes that implementing the ORF with the sunset provision is equitable and not unfairly discriminatory because it will apply in the same manner to all Members that are subject to the ORF and the Exchange will provide such Members with advance notice of any changes to the ORF imposed 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. This proposal will not create an unnecessary or inappropriate intra-market burden on competition because the ORF will apply to all customer activity, and is designed to enable the Exchange to recover a material portion of the Exchange's cost related to its regulatory activities. This proposal will not create an unnecessary or inappropriate inter-market burden on competition because it will be a regulatory fee that supports regulation and customer protection in furtherance of the purposes of the Act. The Exchange is obligated to ensure that the amount of regulatory revenue collected from the ORF, in combination with its other regulatory fees and fines, does not exceed regulatory costs. The Exchange's proposed ORF, as described herein, is lower than or comparable to fees charged by other options exchanges (though as noted above, some exchange groups do have options exchanges operating with a lower ORF on a

exchanges, comprised of six options exchanges, charges an aggregate ORF rate of $0.0084 per contract (nearly 6 times the Exchange's proposed rate). The Exchange notes that the NYSE exchanges, comprised of two options exchanges, charges an aggregate ORF rate of $0.011 per contract (over 7 times the Exchange's proposed rate).

[30] *See* MEMX LLC—LLC Agreement at *https://info.memxtrading.com/regulation/governance/.*

standalone basis). The proposal to limit the changes to the ORF to twice a year with advance notice is not intended to address a competitive issue but rather to provide Members with better notice of any change that the Exchange may make to the ORF.

The Exchange notes that while it does not believe that its proposed ORF will impose any burden on inter-market competition, the Exchange not charging an ORF or being precluded from charging an ORF would, in-fact, represent a significant burden on competition. As noted above, the Exchange is a new entrant in the highly competitive environment for equity options trading. As also noted above, all sixteen (16) registered options exchanges currently impose the ORF on their members, and, similar to the Exchange, the majority of the options exchanges launched over the last decade have implemented an ORF on the day of launch or shortly thereafter.[31] Such ORF fees imposed by other options exchanges currently do and will continue to extend to executions occurring on the Exchange. The Exchange believes that in order to compete with these existing options exchanges, it must, in fact, impose an ORF on its Members, and that the inability to do so would result in an unfair competitive disadvantage to the Exchange. Given the Commission's questions, as articulated in various orders instituting proceedings and the OIP, the Exchange has proposed its ORF with a sunset that will allow the Exchange the time to gather the necessary data, including its actual regulatory costs and revenues, as well as the cost of regulating executions that clear in the customer capacity and executions that occur on away markets, while also allowing it to adequately cover a portion of the projected costs associated with the regulation of its Members.

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[32] and Rule 19b–4(f)(2)[33] 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–2023–38 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–MEMX–2023–38. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–MEMX–2023–38 and should be submitted on or before January 29, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–00080 Filed 1–5–24; 8:45 am]

BILLING CODE 8011–01–P

[31] *See supra,* note 17.

[32] 15 U.S.C. 78s(b)(3)(A)(ii).

[33] 17 CFR 240.19b–4(f)(2).

[34] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, January 11, 2024.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

(Authority: 5 U.S.C. 552b.)

Dated: January 4, 2024.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–00246 Filed 1–4–24; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–139, OMB Control No. 3235–0128]

Submission for OMB Review; Comment Request; Extension: Rule 12f–1

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 12f–1 (17 CFR 240.12f–1) under the Securities Exchange Act of 1934 (''Act'') (15 U.S.C. 78a *et seq.*).

Rule 12f–1 (''Rule''), originally adopted in 1979 pursuant to Sections 12(f) and 23(a) of the Act, and as further modified in 1995 and 2005, sets forth the requirements for filing an exchange application to reinstate unlisted trading privileges (''UTP'') in a security in which UTP has been suspended by the Commission pursuant to Section 12(f)(2)(A) of the Act. Under Rule 12f–1, an exchange must submit one copy of an application for reinstatement of UTP to the Commission that contains specified information, as set forth in the Rule. The application for reinstatement, pursuant to the Rule, must provide the name of the issuer, the title of the security, the name of each national securities exchange, if any, on which the security is listed or admitted to unlisted trading privileges, whether transaction information concerning the security is reported pursuant to an effective transaction reporting plan contemplated by Rule 601 of Regulation NMS, the date of the Commission's suspension of unlisted trading privileges in the security on the exchange, and any other pertinent information related to whether the reinstatement of UTP in the subject security is consistent with the maintenance of fair and orderly markets and the protection of investors. Rule 12f–1 further requires a national securities exchange seeking to reinstate its ability to extend unlisted trading privileges in a security to indicate that it has provided a copy of such application to the issuer of the security, as well as to any other national securities exchange on which the security is listed or admitted to unlisted trading privileges.

The information required by Rule 12f–1 enables the Commission to make the necessary findings under the Act prior to granting applications to reinstate unlisted trading privileges. This information is also made available to members of the public who may wish to comment upon the applications. Without the Rule, the Commission would be unable to fulfill these statutory responsibilities.

There are currently 24 national securities exchanges subject to Rule 12f–1. The burden of complying with Rule 12f–1 arises when a potential respondent seeks to reinstate its ability to extend unlisted trading privileges to any security for which unlisted trading privileges have been suspended by the Commission, pursuant to Section 12(f)(2)(A) of the Act. The staff estimates that each application would require approximately one hour to complete. Thus, each potential respondent would incur on average one burden hour in complying with the Rule.

The Commission staff estimates that there could be as many as 24 responses annually for an aggregate annual hour burden for all respondents of approximately 24 hours (24 responses × 1 hour per response). Each respondent's related internal cost of compliance for Rule 12f–1 would be approximately $242.00 (the cost of one hour of professional work of a paralegal needed to complete the application). The total annual cost of compliance for all potential respondents, therefore, is approximately $5,808 (24 responses × $242.00 per response).

Compliance with Rule 12f–1 is mandatory. Rule 12f–1 does not have a record retention requirement *per se.* However, responses made pursuant to Rule 12f–1 are subject to the recordkeeping requirements of Rules 17a–3 and 17a–4 of the Act. Information received in response to Rule 12f–1 shall not be kept confidential; the information collected is public information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent by February 7, 2024 to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: January 3, 2024.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–00120 Filed 1–5–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99261; File No. SR–MEMX–2023–42]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Fee Schedule To Extend the Membership Fee Waiver

January 2, 2024.

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 December 28, 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposed rule change to amend the Exchange's fee schedule (the ''Fee Schedule'') pursuant to Exchange Rules 15.1(a) and (c). The Exchange proposes to extend the waiver (the ''Membership Fee Waiver'') of membership fees (''Membership Fees'') which is currently in place for all new Members [3] of the Exchange, for an additional month beyond the program's current expiration on December 31, 2023. The Exchange will continue to waive Membership Fees for new Members who join the Exchange through January 31, 2024. The text of the proposed rule change is provided in Exhibit 5.

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 extend the time period for the waiver of Membership Fees until January 31, 2024. The Exchange will continue to implement the Membership Fee Waiver (as defined above) for all new Members who join the Exchange prior to and including January 31, 2024. The Exchange notes that the proposed change does not amend any existing fee or rebate for equities transactions, market data or connectivity fees. The sole change proposed herein is to extend the timeframe during which the Exchange will waive Membership Fees for new Members of the Exchange.

Currently, MEMX applies a Membership Fee Waiver to all new Members of the Exchange which is set to expire on December 31, 2023. Under the current Membership Fee Waiver, new Members who join the Exchange after December 31, 2023, would be assessed Membership Fees of $200 per month to maintain active membership, and new Members whose Membership Fees were waived during the Waiver Period would be assessed Membership Fees of $200 per month beginning January 1, 2024. In addition, in September of 2023 the Exchange adopted specific fees applicable to participation on the Exchange's platform for trading equity options (''MEMX Options'').[4] The current Membership Fee Waiver has also been applied to new Members of MEMX Options, and thus such fees have not been imposed on such Members to date.

The Exchange believes that the existing Membership Fee Waiver has been effective in incentivizing options market participants to join MEMX Options. MEMX Options launched in September of 2023, and has been conducting a staged rollout of options available for trading on the Exchange since that time. The Exchange believes that its rollout will be complete in January of 2024 and would like to extend the Membership Fee Waiver until after its rollout is complete in the event there are options firms that are waiting to join the Exchange until after such rollout is complete. In addition, the Exchange believes the Membership Fee Waiver is a proper incentive for new participants on MEMX Options to continue to increase their participation as they become accustomed to the new trading platform.

Accordingly, the Exchange proposes to extend the time period of the Membership Fee Waiver to expire on January 31, 2024. The Exchange proposes to continue to waive Membership Fees for all new Members who join the exchange on or before January 31, 2024. Under the proposed Membership Fee Waiver, new Members who join the Exchange after January 31, 2024, will be assessed Membership Fees to maintain active membership and if applicable, Members who participate on MEMX Options will be assessed the specific Additional Fees applicable to such participation. Similarly, new Members whose Membership Fees have been waived since joining the Exchange will be assessed Membership Fees, including Additional Fees applicable to participation on MEMX Options, if applicable, beginning February 1, 2024. In addition, new Members of MEMX Options who join after January 31, 2024, will be assessed Membership Fees of $200 per month to maintain active membership, and new Members whose Membership Fees were waived will be assessed Membership Fees of $200 per month beginning February 1, 2024. Specifically, the Exchange is proposing to amend the description under ''Membership'' in the Exchange's Fee Schedule, noting that Membership Fees will be waived for new Members of the Exchange until February 1, 2024.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[5] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[6] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes it is reasonable to extend the timeframe of the Membership Fee Waiver for new Members of the Exchange, primarily to continue to provide an incentive for options trading firms to continue to apply for Exchange membership during the current phase of the rollout of MEMX Options. The options markets are quote-driven markets and are dependent on liquidity providers for liquidity and price discovery. Extending the timeframe of the Membership Fee Waiver will continue to encourage additional liquidity providers to become members of the Exchange, which may result in more trading opportunities, enhanced competition, and improved overall market quality on the Exchange. Although the proposed extension of the Membership Fee Waiver timeframe is intended primarily to encourage new participants to join the Exchange in order to participate on the MEMX Options market and the Exchange believes the participants that will benefit from this waiver are firms that will do so, the Exchange also believes that it is reasonable to continue applying the Membership Fee Waiver broadly to all new participants on the Exchange during the timeframe extension, including firms that would trade only on the Exchange's market for equity securities or on both the Exchange's market for equity securities and MEMX Options.

In addition, the Exchange believes that the proposed extension of the Membership Fee Waiver is equitable and not unfairly discriminatory in that it will apply uniformly to all new

[3] *See* Exchange Rule 1.5(p).

[4] *See* Securities Exchange Act Release No. 98648 (September 29, 2023), 88 FR 68762 (October 4, 2023) (SR–MEMX–2023–26).

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(4) and (5).

Members of the Exchange. Further, the Exchange believes that the proposed extension of the waiver is reasonable, equitable and not unfairly discriminatory to current Members of the Exchange because the majority of the Exchange's existing Members joined at a time when the Exchange did not impose membership fees (also to incentivize such participants to join), and thus have already received this benefit.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed change would encourage market participants who have not already done so to join the Exchange. As a result, if such participants do join the Exchange and route their orders to the Exchange or support other Members that route orders (*i.e.,* clearing firms) the Exchange believes the proposal would further enhance its competitiveness as a market. Encouraging additional participants to join the Exchange will enable a greater number of participants to participate on MEMX Options during the continued rollout of the platform. Further, the Exchange believes that by continuing to make the Membership Fee Waiver applicable to both the Exchange's options platform and the Exchange's equity platform for an extended time period, the proposal will enhance the competitiveness of both platforms. Attracting a greater number of participants will foster greater competition on the Exchange, particularly in the case of MEMX Options which is a quote-driven market. For these reasons, the Exchange believes that the proposal furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [7]

Intramarket Competition

As discussed above, the Exchange believes that the proposal would encourage new participants to apply for Exchange membership, thereby enhancing liquidity and market quality on the Exchange, as well as enhancing the attractiveness of the Exchange as a trading venue, which the Exchange believes, in turn, would continue to encourage market participants to direct additional order flow to the Exchange.

The Exchange does not believe that the proposed changes would impose any burden on intramarket competition because such changes will incentivize new participants to join the Exchange and the majority of the Exchange's current members joined at a time when the Exchange did not impose membership fees (also to incentivize such participants to join), and thus have already received this benefit. The options markets are quote-driven markets and are dependent on liquidity providers for liquidity and price discovery. The proposal will be of particular importance in encouraging additional liquidity providers to become members of the Exchange, which may result in more trading opportunities, enhanced competition, and improved overall market quality on the Exchange. For the foregoing reasons, the Exchange believes the proposed changes would not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intermarket Competition

As described above, the proposed extension of the Membership Fee Waiver timeframe will incent market participants to join the Exchange during the extended Membership Fee Waiver period. Accordingly, the Exchange believes the proposal would not burden, but rather promote, intermarket competition by enabling it to better compete with other options exchanges during the continued rollout of MEMX Options. In addition, as noted above, the Exchange has intentionally proposed to apply the waiver broadly so that it continues to be applicable to new Members that will participate on the Exchange's market for equity securities or that will participate on such market as well as MEMX Options, and thus, the proposal may also better enable the Exchange to compete with other options exchanges and equities exchanges.

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 [8] and Rule 19b–4(f)(2) [9] 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–2023–42 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–2023–42. 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

[7] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f)(2).

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–2023–42 and should be submitted on or before January 29, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–00079 Filed 1–5–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99264; File No. SR–DTC–2023–014]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to the DTC Fee Schedule To Revise Certain Fees Charged to Participants for (i) Participants Fund Maintenance; (ii) Underwriting Services; (iii) Asset Services; and (iv) Settlement Services

January 2, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 21, 2023, The Depository Trust Company (''DTC'') 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. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(2) 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[5] would modify the DTC Fee Schedule[6] (''Fee Guide'') to revise certain fees charged to Participants for (i) Participants Fund Maintenance; (ii) Underwriting Services;[7] (iii) Asset Services; and (iv) Settlement Services, as described 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

Purpose

The proposed rule change would modify the Fee Guide to revise certain fees charged to Participants for (i) Participants Fund Maintenance; (ii) Underwriting Services; (iii) Asset Services; and (iv) Settlement Services, as described below.

Overview

DTC operates a ''low cost'' pricing model and has in place procedures to control costs and to regularly review pricing levels against costs of operation. It reviews pricing levels against its costs of operation during the annual budget process. The budget is approved annually by the Board. DTC's fees are cost-based plus a low-margin markup, as approved by the Board or management (pursuant to authority delegated by the Board), as applicable. The markup is applied to recover development costs and operating expenses, and to accumulate capital sufficient to meet regulatory and economic requirements. When estimating expected revenues and costs, DTC typically uses historical, current, and expected usage and market trends to determine revenue outlook and apply current budgeted assumptions on costs.

In addition to assessing the overall impact of fee changes at DTC, the Board also considers impacts of fee changes from an individual product/service category (*e.g.,* Underwriting, Asset Services, Participants Fund Maintenance) perspective, taking cost and capital considerations relating to a given category into account. After evaluation of DTC's short-term and long-term financial position in consideration of expected Participant activity, revenues, cost of funding, market volatility, and the financial markets more broadly, DTC has determined that it should increase the overall amount it collects from Participants through fees. In this regard, the proposed rule change would increase certain fees relating to Participants Fund maintenance and Underwriting Services, and it would eliminate and consolidate other Asset Services fees included in the Fee Guide, to better align cost and revenue, as described below.

Participant Fund Maintenance Fee Increase

DTC maintains a pool of funds used for liquidity purposes consisting of mandatory and voluntary contributions by Participants (''Participants Fund''). The Participants Fund creates liquidity and collateral resources to support the business of DTC and to cover losses and liabilities incident to that business. For this purpose, every Participant has a Required Participants Fund Deposit based on the Participant's activity at DTC. The Participants Fund is held in cash at DTC and is used in the event a Participant fails to settle.

In support of maintaining the Participants Fund, DTC charges a Participants Fund Maintenance Fee, which is a monthly fee calculated, in arrears, as the product of (A) 0.25 percent and (B) the average of each Participant's Actual Participants Fund Deposit, as of the end of each day, for the month, multiplied by the number of days for that month and divided by 360.[8] DTC proposes to increase the rate used to calculate the Participants Fund Maintenance Fee by 10 basis points from 0.25 percent to 0.35 percent. DTC is proposing this increase in order to cover its costs for servicing the fund and to maintain the appropriate low-margin markup above costs.

All 193 Participants are projected to incur a 40 percent increase to their

[10] 17 CFR 200.30–3(a)(12).

[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)(2).

[5] Each capitalized term not otherwise defined herein has its respective meaning as set forth the Rules, By-Laws and Organization Certificate of DTC (the ''Rules''), *available at www.dtcc.com/legal/rules-and-procedures.aspx.*

[6] *Available at www.dtcc.com/-/media/Files/Downloads/legal/fee-guides/DTC-Fee-Schedule.pdf.*

[7] Pursuant to Rule 2, Section 1, each Participant shall pay to DTC the compensation due it for services rendered to the Participant based on DTC's fee schedules. *See* Rule 2, *supra* note 5.

[8] *See* Fee Guide, *supra* note 6 at 20.

individual Participants Fund Maintenance Fee as a result of the increase. Of these Participants, six would see an increase between $100,000 and $130,000; 27 would see an increase between $10,000 and $100,000; and 160 would see an increase of less than $10,000.

Underwriting Fee Increase

DTC, through its Underwriting Department, serves the financial industry by making securities eligible for depository services. Through DTC, Participants have the ability to distribute new and secondary offerings quickly and economically by electronic book-entry delivery and settlement. These securities are then available for depository services.

Due to decreasing issuance volumes since 2021, strategic investments in modernization, and continued inflationary headwinds, DTC's Underwriting fees, which have not changed in 10 years, are not covering its costs. DTC proposes to amend the Fee Guide to increase the Underwriting eligibility fees charged to Participants to better align costs and revenue.

Specifically, DTC proposes to increase eligibility fees by approximately 20 percent across the following Underwriting fees (bold, underlined text indicates additions and bold, strikethrough text indicates deletions):

FEE NAME	AMOUNT ($)	CONDITIONS
Eligibility Fees		
	****	
Equity Eligibility Fee	~~**750.00**~~ **900.00**	Per new issue with one CUSIP plus Additional CUSIP Fee 728
	****	
Equity Eligibility – Additional CUSIP Fee	~~**250.00**~~ **300.00**	Per additional CUSIP
Debt Eligibility Fee	~~**350.00**~~ **425.00**	Per new issue with one CUSIP plus Additional CUSIP Fee 729
Debt Eligibility – Additional CUSIP Fee	~~**250.00**~~ **300.00**	Per additional CUSIP
Municipal Eligibility Fee – Single CUSIP	~~**350.00**~~ **425.00**	Per new issue with one CUSIP
Municipal Eligibility Fee – Multi CUSIP	~~**800.00**~~ **975.00**	Per new issue with two or more CUSIPs
Certificate of Deposit (CD)	~~**175.00**~~ **225.00**	Per CUSIP
Municipal and corporate insured custodial receipt	~~**200.00**~~ **250.00**	Per CUSIP
Unit Investment Trust (UIT)	~~**35.00**~~ **40.00**	Per CUSIP
Small Business Administration (SBA) loan pool	~~**200.00**~~ **250.00**	Per issue

Sixty-five Participants would see an increase in Underwriting fees. Of these Participants, 14 would see an increase between $100,000 and $800,000; 26 would see an increase between $10,000 and $100,000; and 25 would see an increase of less than $10,000.

Asset Services—Simplification and Consolidation of Fees

Asset Services is comprised of diverse asset events outside of clearance and settlement. It encompasses over 1.3 million DTC-eligible equity and debt securities, and provides efficient and effective centralization, simplification, and automation in the handling of physical securities. It also processes principal, income, and corporate actions for these instruments.

DTC conducted an extensive review of the current DTC Fee Schedule to ensure alignment with current practice and to streamline DTC's fee structure for a better client experience. The proposed changes to both eliminate and consolidate several Asset Services fees would improve customer billing transparency and provide clearer guidance on when fees are applied. The proposed changes also further reduce the complexity of tiered fee structures and eliminate fees for outdated and non-value-add services. These changes will not have a material impact on the total dollar amount of Asset Services fees charged to Participants.

Specifically, the following entries in the Asset Services section of the Fee Guide would be revised (bold, underlined text indicates additions and bold, strikethrough text indicates deletions):

FEE NAME	AMOUNT ($)	CONDITIONS
Securities Processing		
	****	
General Asset Services		
	****	
~~**Researching Fee**~~	~~**100.00**~~	~~**Per hour or per CUSIP, depending on nature of research**~~
~~**Invitation to Cover Short Request (ICSR)**~~	~~**300.00**~~	~~**Per submission**~~
	****	
Corporate Actions		
	****	
Allocation Fees		
	****	

Mandatory Corporate Actions	~~**75.00**~~ **80.00**	Mandatory exchanges, including mandatory puts, name changes/swings and sale of Rights per participant position
	****	
Agent Fees		
	****	
~~**Consent Only - Base Processing Fee**~~ **Consent, Voting or Blocking base processing fee**	2,000.00	Per election
~~**Consent Only - Additional Elections on Event**~~ **Add Election on Event – Consent, Voting or Blocking**	1,000.00	Per election
~~**Consent Only - Payment Processing**~~ **Payment Processing – Consent, Voting or Blocking**	200.00	Per election
~~**Consent Only - Event Extension**~~ **Event Extension – Consent, Voting, Blocking**	200.00	Per election
~~**Late Notification of Voluntary Events, tier 1**~~ **Late Notice of Vol Events received 5-9 days**	2,000.00	Notification received within 5 to 9 days of the expiration
~~**Late Notification of Voluntary Events, tier 2**~~ **Late Notice of Vol Events received <5 days**	5,000.00	Notification received less than 5 days of the expiration
~~**Non-Standard Corporate Actions**~~ **Asset Services Exception Processing & Research**	Varies	Based on structure of the offer
~~**Rate Change (Post-Payable) And Manual Allocations**~~ **Rate Change and Manual Allocations**	2,000.00	Per CUSIP
Deposit Services		
	****	
Deposit Automation Management (DAM)		
	****	
~~**Transfer Agent Charges**~~	~~**Varies**~~	~~**Chargeback of fees charged by the transfer agent, plus $1.00 transaction fee; Applies to cancellation and issuance of certificates of certain issues**~~
	****	
New York Window Services (including Envelope Settlement Service, Intercity Envelope Settlement Service, Funds-Only Settlement Service, Dividend Settlement Service)		
	****	
Other Services		

Settlement Services

The following entries in the Settlement Services section of the Fee Guide would be revised (bold, underlined text indicates additions and bold strikethrough text indicates deletions):

	****	
~~**Return of security**~~	~~**0.30**~~	~~**Per security**~~
~~**Transportation**~~	~~**12.00**~~	~~**Per trip**~~
	****	
Reorganization Services		
Reorganization		
	****	
~~**Processing of dissent letter shareholder demand**~~	~~**400.00**~~	~~**Per dissent letter or shareholder demand processed**~~
	****	
~~**Secondary market issue eligibility research (older issues)**~~ **Secondary Market Issue Eligibility**	2,000.00	Per issue; fee is assessed at request for eligibility of an issue that is currently in the secondary market and does not depend on success of request
~~**Submission of a LOR in lieu of a BLOR**~~	~~**300.00**~~	~~**Per letter**~~
~~**Modification to MMI**~~	~~**300.00**~~	~~**Per CUSIP**~~
~~**Consultation/ Research Fee**~~	~~**To be negotiated**~~	~~**Expenses related to eligibility requests that require consultation, research, use of third parties or any other deal-specific handling**~~
	****	

Settlement Services		
	****	
Other		
	****	
Participants Fund Maintenance Fee	Varies	Per month; Calculated, in arrears, as the product of (A) 0.~~2~~**35** and (B) the average of each Participant's Actual Participants Fund Deposit, as of the end of each day, for the month, multiplied by the number of days for that month and divided by 360.
	****	

Participant Outreach

DTC has conducted ongoing outreach to each Participant in order to provide them with notice of the proposed changes and the anticipated impact for the Participant. The impact of the proposed changes was provided to Participants using year to date July 2023 annualized data. Participants asked clarifying questions but did not express concerns.

Implementation Timeframe

DTC would implement this proposal on January 1, 2024. To that effect, a legend would be added to the Fee Guide stating there are changes that have become effective upon filing with the but have not yet been implemented. The

proposed legend also would include a date on which such changes would be implemented and the file number of this proposal, and state that, once this proposal is implemented, the legend would automatically be removed from the Fee Guide.

2. Statutory Basis

DTC believes this proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. Specifically, DTC believes the proposed changes to modify fees charged to Participants for (i) Participants Fund Maintenance; (ii) Underwriting Services; (iii) Asset Services; and (iv) Settlement Services, as described above, are consistent with Section 17A(b)(3)(D) of the Act,[9] for the reasons described below. DTC also believes that the proposed changes to update the Fee Guide with the new fees are consistent with Rule 17Ad–22(e)(23)(ii),[10] as promulgated under the Act, for the reasons described below.

Section 17A(b)(3)(D) of the Act requires, *inter alia,* that the Rules provide for the equitable allocation of reasonable dues, fees, and other charges among Participants.[11] DTC believes the proposed rule change to revise fees charged to Participants for (i) Participants Fund Maintenance; (ii) Underwriting Services; (iii) Asset Services; and (iv) Settlement Services, would provide for the equitable allocation of reasonable fees. Because all 193 Participants would see an increase in fees, and those increases are equally shared (*e.g.,* in the case of the Participants Fund Maintenance with a consistent 40 percent increase per Participant) and directly proportional to the Participants' use of DTC's services (*e.g.,* in the case of the Underwriting and Asset Service fees), DTC believes the fees continue to be equitably allocated.

DTC also believes that the proposed fees would continue to be reasonable under the described changes. As described above, DTC's fees are cost-based plus a low-margin markup. As such the proposed fee changes are simply designed to better align to the projected operating costs and expenses of DTC relating to its services. For this reason, DTC believes that the proposed fee changes, as described above, are reasonable and consistent with Section 17A(b)(3)(D) of the Act.[12]

Rule 17Ad–22(e)(23)(ii) under the Act[13] requires DTC to establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide sufficient information to enable participants to identify and evaluate the risks, fees, and other material costs they incur by participating in the covered clearing agency. The proposed fees would be clearly and transparently published in the Fee Guide, which is available on a public website,[14] thereby enabling Participants to identify the fees and costs associated with participating in DTC. As such, DTC believes the proposed rule change is consistent with Rule 17Ad–22(e)(23)(ii) under the Act.[15]

(B) Clearing Agency's Statement on Burden on Competition

The proposed rule change may impact competition and that impact may be a burden because it would result in increased fees paid by Participants, as described above. However, DTC does not believe such a burden would be significant because the fees would be charged equally to all Participants that utilize DTC's services and would merely reflect the Participants' activity at DTC. Regardless, DTC believes any burden would be necessary and appropriate in furtherance of the purposes of the Act, as permitted by Section 17A(b)(3)(I) of the Act.[16]

DTC believes any such burden would be necessary because the proposed fee increases would better align the fees with DTC's associated costs, helping DTC to achieve and maintain its net income margin. Meanwhile, DTC also believes that any such burden would be appropriate because the fees would continue to be equitably and reasonably allocated among all Participants, as described above.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

DTC has not received or solicited any written comments relating to this proposal. If any written comments are received, they would 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 www.sec.gov/regulatory-actions/how-to-submit-comments.* 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.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and paragraph (f) 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–DTC–2023–014 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–DTC–2023–014. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements

[9] 15 U.S.C. 78q–1(b)(3)(D).
[10] 17 CFR.17Ad–22(e)(23)(ii).
[11] 15 U.S.C. 78q–1(b)(3)(D).
[12] *Id.*
[13] 17 CFR 240.17Ad–22(e)(23)(ii).
[14] *See supra* note 6.
[15] 17 CFR 240.17Ad–22(e)(23)(ii).
[16] 15 U.S.C. 78q–1(b)(3)(I).

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 DTC and on DTCC's website (*https://www.dtcc.com/legal/sec-rule-filings*). 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–DTC–2023–014 and should be submitted on or before January 29, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–00078 Filed 1–5–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99260; File No. 4–818]

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Order Approving and Declaring Effective a Proposed Plan for the Allocation of Regulatory Responsibilities Between the Financial Industry Regulatory Authority, Inc. and Nasdaq PHLX LLC

January 2, 2024.

On November 17, 2023, the Financial Industry Regulatory Authority, Inc. (''FINRA'') and Nasdaq PHLX LLC (''PHLX'') (together with FINRA, the ''Parties'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') a plan for the allocation of regulatory responsibilities, dated November 12, 2023 (''17d–2 Plan'' or the ''Plan''). The Plan was published for comment on December 7, 2023.[1] The Commission received no comments on the Plan. This order approves and declares effective the Plan.

I. Introduction

Section 19(g)(1) of the Securities Exchange Act of 1934 (''Act''),[2] among other things, requires every self-regulatory organization (''SRO'') registered as either a national securities exchange or national securities association to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d) or Section 19(g)(2) of the Act.[3] Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO (''common members''). Such regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act[4] was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.[5] With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules, and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d–1 and Rule 17d–2 under the Act.[6] Rule 17d–1 authorizes the Commission to name a single SRO as the designated examining authority (''DEA'') to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules.[7] When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with the applicable financial responsibility rules. On its face, Rule 17d–1 deals only with an SRO's obligations to enforce member compliance with financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices and trading activities and practices.

To address regulatory duplication in these and other areas, the Commission adopted Rule 17d–2 under the Act.[8] Rule 17d–2 permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect to their common members. Under paragraph (c) of Rule 17d–2, the Commission may declare such a plan effective if, after providing for appropriate notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors; to foster cooperation and coordination among the SROs; to remove impediments to, and foster the development of, a national market system and a national clearance and settlement system; and is in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

II. Proposed Plan

The proposed 17d–2 Plan is intended to reduce regulatory duplication for firms that are common members of both PHLX and FINRA.[9] Pursuant to the proposed 17d–2 Plan, FINRA would assume certain examination and enforcement responsibilities for common members with respect to certain applicable laws, rules, and regulations.

The text of the Plan delineates the proposed regulatory responsibilities with respect to the Parties. Included in the proposed Plan is an exhibit (the ''PHLX Certification of Common Rules,'' referred to herein as the ''Certification'') that lists every PHLX rule, and select federal securities laws, rules, and regulations, for which FINRA would bear responsibility under the Plan for overseeing and enforcing with respect to PHLX members that are also members of FINRA and the associated persons therewith (''Dual Members'').

Specifically, under the 17d–2 Plan, FINRA would assume examination and enforcement responsibility relating to

[17] 17 CFR 200.30–3(a)(12).

[1] *See* Securities Exchange Act Release No. 99065 (December 1, 2023), 88 FR 85338.

[2] 15 U.S.C. 78s(g)(1).

[3] 15 U.S.C. 78q(d) and 15 U.S.C. 78s(g)(2), respectively.

[4] 15 U.S.C. 78q(d)(1).

[5] *See* Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session 32 (1975).

[6] 17 CFR 240.17d–1 and 17 CFR 240.17d–2, respectively.

[7] *See* Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976).

[8] *See* Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

[9] The proposed 17d–2 Plan refers to these common members as ''Dual Members.'' *See* Paragraph 1(c) of the proposed 17d–2 Plan.

compliance by Dual Members with the rules of PHLX that are substantially similar to the applicable rules of FINRA,[10] as well as any provisions of the federal securities laws and the rules and regulations thereunder delineated in the Certification (''Common Rules''). In the event that a Dual Member is the subject of an investigation relating to a transaction on PHLX, the plan acknowledges that PHLX may, in its discretion, exercise concurrent jurisdiction and responsibility for such matter.[11]

Under the Plan, PHLX would retain full responsibility for surveillance, examination, investigation and enforcement with respect to trading activities or practices involving PHLX's own marketplace, including, without limitation, registration pursuant to its applicable rules of associated persons (*i.e.,* registration rules that are not Common Rules); its duties as a DEA pursuant to Rule 17d–1 under the Act; and any PHLX rules that are not Common Rules.[12]

III. Discussion

The Commission finds that the proposed Plan is consistent with the factors set forth in Section 17(d) of the Act[13] and Rule 17d–2(c) thereunder[14] in that the proposed Plan is necessary or appropriate in the public interest and for the protection of investors, fosters cooperation and coordination among SROs, and removes impediments to and fosters the development of the national market system. In particular, the Commission believes that the proposed Plan should reduce unnecessary regulatory duplication by allocating to FINRA certain examination and enforcement responsibilities for common members that would otherwise be performed by PHLX and FINRA. Accordingly, the proposed Plan promotes efficiency by reducing costs to common members. Furthermore, because PHLX and FINRA will coordinate their regulatory functions in accordance with the Plan, the Plan should promote investor protection.

The Commission notes that, under the Plan, PHLX and FINRA have allocated regulatory responsibility for those PHLX rules, set forth in the Certification, that are substantially similar to the applicable FINRA rules in that examination for compliance with such provisions and rules would not require FINRA to develop one or more new examination standards, modules, procedures, or criteria in order to analyze the application of the rule, or a common member's activity, conduct, or output in relation to such rule. In addition, under the Plan, FINRA would assume regulatory responsibility for certain provisions of the federal securities laws and the rules and regulations thereunder that are set forth in the Certification. The Common Rules covered by the Plan are specifically listed in the Certification, as may be amended by the Parties from time to time.

According to the Plan, PHLX will review the Certification, at least annually, or more frequently if required by changes in either the rules of PHLX or FINRA, and, if necessary, submit to FINRA an updated list of Common Rules to add PHLX rules not included on the then-current list of Common Rules that are substantially similar to FINRA rules; delete PHLX rules included in the then-current list of Common Rules that are no longer substantially similar to FINRA rules; and confirm that the remaining rules on the list of Common Rules continue to be PHLX rules that are substantially similar to FINRA rules.[15] FINRA will then confirm in writing whether the rules listed in any updated list are Common Rules as defined in the Plan. The Commission believes that these provisions are designed to provide for continuing communication between the Parties to ensure the continued accuracy of the scope of the proposed allocation of regulatory responsibility.

The Commission is hereby declaring effective a Plan that, among other things, allocates regulatory responsibility to FINRA for the oversight and enforcement of all PHLX rules that are substantially similar to the rules of FINRA for common members of PHLX and FINRA. Therefore, modifications to the Certification need not be filed with the Commission as an amendment to the Plan, provided that the Parties are only adding to, deleting from, or confirming changes to PHLX rules in the Certification in conformance with the definition of Common Rules provided in the Plan. However, should the Parties decide to add a PHLX rule to the Certification that is not substantially similar to a FINRA rule; delete a PHLX rule from the Certification that is substantially similar to a FINRA rule; or leave on the Certification a PHLX rule that is no longer substantially similar to a FINRA rule, then such a change would constitute an amendment to the Plan, which must be filed with the Commission pursuant to Rule 17d–2 under the Act.[16]

IV. Conclusion

This Order gives effect to the Plan filed with the Commission in File No. 4–818. The Parties shall notify all members affected by the Plan of their rights and obligations under the Plan.

It is therefore ordered, pursuant to Section 17(d) of the Act, that the Plan in File No. 4–818, between FINRA and PHLX, filed pursuant to Rule 17d–2 under the Act, is approved and declared effective.

It is further ordered that PHLX is relieved of those responsibilities allocated to FINRA under the Plan in File No. 4–818.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–00081 Filed 1–5–24; 8:45 am]

BILLING CODE 8011–01–P

[10] *See* paragraph 1(b) of the proposed 17d–2 Plan (defining Common Rules). *See also* paragraph 1(f) of the proposed 17d–2 Plan (defining Regulatory Responsibilities). Paragraph 2 of the Plan provides that annually, or more frequently as required by changes in either PHLX rules or FINRA rules, the parties shall review and update, if necessary, the list of Common Rules.

[11] *See* paragraph 5 of the proposed 17d–2 Plan.

[12] *See* paragraph 2 of the proposed 17d–2 Plan.

[13] 15 U.S.C. 78q(d).

[14] 17 CFR 240.17d–2(c).

[15] *See* paragraph 2 of the Plan.

[16] The Commission also notes that the addition to or deletion from the Certification of any federal securities laws, rules, and regulations for which FINRA would bear responsibility under the Plan for examining, and enforcing compliance by, common members, also would constitute an amendment to the Plan.

[17] 17 CFR 200.30–3(a)(34).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99265; File No. SR–MEMX–2023–40]

Self-Regulatory Organizations; MEMX LLC; Notice of Withdrawal of Proposed Rule Change To Establish Fees for Industry Members Related to Certain Historical Costs of the National Market System Plan Governing the Consolidated Audit Trail

January 2, 2024.

On December 26, 2023, MEMX LLC (the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to establish fees for industry members related to certain historical costs of the National Market System plan governing the Consolidated Audit

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Trail. The proposed rule change was noticed for comment on December 29, 2023.[3] On January 2, 2024, the Exchange withdrew the proposed rule change.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[4]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–00082 Filed 1–5–24; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice: 12300]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''Klimt Landscapes'' 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 ''Klimt Landscapes'' at the Neue Galerie New York, in New York, New York, 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. 2024–00101 Filed 1–5–24; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 12293]

Notice of Public Meeting in Preparation for International Maritime Organization Tenth Session of the Sub-Committee on Ship Design and Construction (SDC) Meeting

The Department of State will conduct a public meeting at 1 p.m. on Wednesday, January 17, 2024, both in-person at Coast Guard Headquarters in Washington, DC, and via teleconference. The primary purpose of the meeting is to prepare for the 10th session of the International Maritime Organization's (IMO) Sub-committee on Ship Design and Construction (SDC) to be held at IMO Headquarters in London, United Kingdom from Monday, January 22 to Friday, January 26, 2024.

Members of the public may participate up to the capacity of the teleconference phone line, which can handle 500 participants or up to the seating capacity of the room if attending in person. The meeting location will be the United States Coast Guard Headquarters, and the teleconference line will be provided to those who RSVP. To RSVP, participants should contact the meeting coordinator, LCDR Bryan Andrews, by email at *bryan.j.andrews@uscg.mil.* LCDR Andrews will provide access information for in-person and virtual attendance.

The agenda items to be considered at SDC 10 include:

—Adoption of the agenda
—Decisions of other IMO bodies
—Development of Guidelines for emergency towing arrangements for ships other than tankers (2.20)
—Further development of the IP Code and associated guidance (2.4)
—Review of the 2014 Guidelines for the reduction of underwater noise from commercial shipping to address adverse impacts on marine life (MEPC.1/Circ.833) (2014 Guidelines) and identification of next steps (1.16)
—Amendments to the 2011 ESP Code (6.22)
—Safety objectives and functional requirements of the Guidelines on alternative design and arrangements for SOLAS chapter II–1 (2.5)
—Revision of SOLAS chapters II–1 (part C) and V, and related instruments regarding steering and propulsion requirements, to address both traditional and non-traditional propulsion and steering systems
—Amendments to the Guidelines for construction, installation, maintenance and inspection/survey of means of embarkation and disembarkation (MSC.1/Circ.1331) concerning the rigging of safety netting on accommodation ladders and gangways
—Unified interpretation of provisions of IMO safety, security, and environment-related conventions (7.1)
—Amendment to regulation 25 of the of the 1988 Load Line Protocol regarding the requirement for setting of guard rails on the deck structure
—Guidelines for use of fibre-reinforced plastics (FRP) within ship structures
—Revision of the Interim explanatory notes for the assessment of passenger ship systems' capabilities after a fire or flooding casualty (MSC.1/Circ.1369) and related circulars (7.42)
—Biennial status report and provisional agenda for SDC 11
—Any other business
—Report to the Maritime Safety Committee

Please note: The IMO may, on short notice, adjust the SDC 10 agenda to accommodate the constraints associated with the meeting format. Any changes to the agenda will be reported to those who RSVP.

Those who plan to participate should contact the meeting coordinator, LCDR Bryan Andrews, by email at *bryan.j.andrews@uscg.mil,* or in writing at 2703 Martin Luther King Jr. Ave. SE, Stop 7509, Washington, DC 20593–7509, by January 5, 2024. Please note that, due to security considerations, two valid, government issued photo identifications must be presented to gain entrance to the Douglas A. Munro Coast Guard Headquarters Building at St. Elizabeth's. This building is accessible by taxi, public transportation, and privately owned conveyance (upon request). Additionally, members of the public needing reasonable accommodation should advise the meeting coordinator not later than January 5, 2024. Requests made after that date will be considered but might not be possible to fulfill.

Additional information regarding this and other IMO public meetings may be found at: *https://www.dco.uscg.mil/IMO.*

[3] *See* Securities Exchange Act Release No. 99257 (Dec. 29, 2023).

[4] 17 CFR 200.30–3(a)(12).

(Authority: 22 U.S.C. 2656 and 5 U.S.C. 552)

Leslie W. Hunt,

Coast Guard Liaison Officer, Office of Ocean and Polar Affairs, Department of State.

[FR Doc. 2024–00084 Filed 1–5–24; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the Grand Junction Regional Airport, Grand Junction, Colorado

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

ACTION: Notice of request to release airport property.

SUMMARY: The FAA proposes to rule and invite public comment on the release of a 21.81 acre parcel of land at the Grand Junction Regional Airport.

DATES: Comments are due within 30 days of the date of the publication of this notice in the **Federal Register**.

ADDRESSES: Emailed comments can be provided to Mr. John Sweeney, Community Planner, Denver Airports District Office, *john.sweeney@faa.gov,* (303) 342–1263.

FOR FURTHER INFORMATION CONTACT: Ms. Angela Padalecki, Executive Director, Grand Junction Regional Airport, 2828 Walker Field Drive, Grand Junction, CO 81506, *apadalecki@gjairport.com,* (970) 244–9100; or Mr. John Sweeney, Community Planner, Denver Airports District Office, *john.sweeney@faa.gov,* (303) 342–1263. Documents reflecting this FAA action may be reviewed at the above locations.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at the Grand Junction Regional Airport under the provisions of 49 U.S.C. 47107(h)(2). The proposal consists of 21.81 acres of land located on the West side of the airport, shown as 27¼ Road on the Airport Layout Plan. The parcel traverses the West side of the airport along the relocated 27¼ Road. The FAA concurs that the parcel is no longer needed for airport purposes. The proposed use of this property is compatible with existing airport operations in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, as published in the **Federal Register** on February 16, 1999.

Issued in Denver, Colorado, on December 20, 2023.

John P. Bauer,

Manager, Denver Airports District Office.

[FR Doc. 2024–00141 Filed 1–5–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at Rocky Mountain Metropolitan Airport, Broomfield, Colorado

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

ACTION: Notice of request to release airport property.

SUMMARY: The FAA proposes to rule and invite public comment on the release of a .3 acre parcel of land at Rocky Mountain Metropolitan Airport.

DATES: Comments are due within 30 days of the date of the publication of this notice in the **Federal Register**.

ADDRESSES: Emailed comments can be provided to Mr. John Sweeney, Community Planner, Denver Airports District Office, *john.sweeney@faa.gov,* (303) 342–1263.

FOR FURTHER INFORMATION CONTACT: Mr. Brian Bishop, Deputy Director, Rocky Mountain Metropolitan Airport, 11755 Airport Way, Broomfield, CO 80021, *rbishop@flyrmma.com,* (303) 271–4861; or Mr. John Sweeney, Community Planner, Denver Airports District Office, *john.sweeney@faa.gov,* (303) 342–1263. Documents reflecting this FAA action may be reviewed at the above locations.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at Rocky Mountain Metropolitan Airport under the provisions of 49 U.S.C. 47107(h)(2). The proposal consists of .3 acres of land located on the West side of the airport, shown as a portion of Parcel 2 on the Airport Layout Plan. The parcel lies on the South side of State Highway 128 near the relocated Simms Road. The FAA concurs that the parcel is no longer needed for airport purposes. The proposed use of this property is compatible with existing airport operations in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, as published in the **Federal Register** on February 16, 1999.

Issued in Denver, Colorado, on December 20, 2023.

John P. Bauer,

Manager, Denver Airports District Office.

[FR Doc. 2024–00142 Filed 1–5–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Proposed Information Collection; Comment Request; Information Collection for Qualitative Research on Consumer Trust in Banking and Bank Supervision

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites comment on a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning a proposed new information collection titled, ''Information Collection for Qualitative Research on Consumer Trust in Banking and Bank Supervision.''

DATES: Comments must be received by March 8, 2024.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, Office of the Comptroller of the Currency, Attention: 1557–NEW, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 293–4835.

Instructions: You must include ''OCC'' as the agency name and ''1557–NEW'' in your comment. In general, the OCC will publish comments on *www.reginfo.gov* without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received,

including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Following the close of this notice's 60-day comment period, the OCC will publish a second notice with a 30-day comment period. You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection by the method set forth below.

• *Viewing Comments Electronically:* Go to *www.reginfo.gov.* Hover over the ''Information Collection Review'' tab and click on ''Information Collection Review'' from the drop-down menu. From the ''Currently under Review'' drop-down menu, select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching OMB control number ''1557–NEW'' or ''Information Collection for Qualitative Research on Consumer Trust in Banking and Bank Supervision.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.

• For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, Clearance Officer, (202) 649–5490, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of title 44 generally requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing notice of the proposed new collection of information set forth in this document.

Title: Information Collection for Qualitative Research on Consumer Trust in Banking and Bank Supervision.

OMB Control No.: 1557–NEW.

Type of Review: Regular.

Affected Public: Consumers and financial service providers.

Estimated Number of Respondents: 230.

Estimated Average Time per Response: 1.5 hours.

Estimated Total Annual Burden: 345 hours.

Description: The OCC plans to conduct a series of focus group/interview discussions to obtain an in-depth understanding of consumers' relationship with and attitudes toward banks, and other non-bank firms providing financial services or products (*e.g.,* payday lenders, check cashers, fintechs providing retail banking services). The results from the focus group/interview discussions will: (i) inform the development of the survey instrument on consumer trust in banking and bank supervision and (ii) be used to produce a qualitative research report that shed insights into the meaning and role of consumer trust in banking and what factors and/or which banking products have the greatest impact on consumer trust in, and decisions on banking.

While the key elements of trust are established in academic research, it is unclear how trust should be measured from a consumer perspective. It is also unclear whether, and to what extent, trust impacts financial decision making. Trust in a specific bank, in banks generally, and in the banking system as a whole may be distinctively different, even if interrelated. Moreover, the components that influence and the meaning of trust in each of these may differ. Consumers may understand trust to mean that they expect an institution to treat them fairly, to help them during economic hardships, to protect their savings, or to function in a reliable and predictable manner (or any combination of these). Such perceptions may differ across individuals, across different financial services and products, and/or across different types of financial institutions. Moreover, perceptions may be based on personal experiences, media reports, personal expectations, or how well someone understands how the U.S. banking system works. Moreover, decisions to bank with a specific financial service provider may not necessarily reflect greater trust in that institution. Rather, it may reflect convenience or cost considerations that may be unrelated to trust. Conversely, lack of participation in the banking system may not necessarily reflect lower levels of trust in banks or the banking system. Rather, it may reflect cultural norms or a mismatch of supply and demand that may be unrelated to trust.

To ensure that the quantitative survey instrument accurately measures trust in banking and its role in banking choices, the OCC will recruit individuals from diverse socioeconomic backgrounds/conditions to participate in focus groups/interviews to help identify the specific types of financial services where trust is highly influential in a consumers' decision to bank, the sources of (dis)trust, reasons consumers may choose a particular financial institution, and whether they have different perceptions of trust across different types of financial institutions. Such discussions will help the OCC refine the quantitative survey to help ensure that the results reflect an accurate understanding of consumers' trust and its role in banking.

Additionally, the OCC may engage with industry stakeholders to understand the meaning and role of consumer trust in banking, as perceived by the industry stakeholders. From these industry stakeholder discussions, the OCC may gain additional insight in the approaches and lessons learned from the industry regarding the strategies to maintain or build consumer trust.

The discussion with stakeholders about their own experiences of establishing trust with consumers will enable us to identify any other additional perspectives and the reasons behind the level of consumer trust in banking.

Participation in this information collection will be voluntary and confidential and conducted in-person, by phone, or using other methods, such as virtual technology. The OCC estimates that the focus groups are expected to average 90 minutes with an estimated 345 annualized burden hours to 230 respondents (1.5 hours per participant, including intake form × 230 participants). Travel time, if any, is excluded from the estimated hours of burden. Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including

whether the information has practical utility; (b) The accuracy of the OCC'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 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.

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2024–00100 Filed 1–5–24; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Interest Rate Paid on Cash Deposited To Secure U.S. Immigration and Customs Enforcement Immigration Bonds

AGENCY: Departmental Offices, Treasury.

ACTION: Notice.

SUMMARY: For the period beginning January 1, 2024, and ending on March 31, 2024, the U.S. Immigration and Customs Enforcement Immigration Bond interest rate is 3 per centum per annum.

DATES: Rates are applicable January 1, 2024, to March 31, 2024.

ADDRESSES: Comments or inquiries may be mailed to Will Walcutt, Supervisor, Funds Management Branch, Funds Management Division, Fiscal Accounting, Bureau of the Fiscal Services, Parkersburg, West Virginia 26106–1328.

You can download this notice at the following internet addresses: <*http://www.treasury.gov*> or <*http://www.federalregister.gov*>.

FOR FURTHER INFORMATION CONTACT: Ryan Hanna, Manager, Funds Management Branch, Funds Management Division, Fiscal Accounting, Bureau of the Fiscal Service, Parkersburg, West Virginia 261006–1328 (304) 480–5120; Will Walcutt, Supervisor, Funds Management Branch, Funds Management Division, Fiscal Accounting, Bureau of the Fiscal Services, Parkersburg, West Virginia 26106–1328, (304) 480–5117.

SUPPLEMENTARY INFORMATION: Federal law requires that interest payments on cash deposited to secure immigration bonds shall be ''at a rate determined by the Secretary of the Treasury, except that in no case shall the interest rate exceed 3 per centum per annum.'' 8 U.S.C. 1363(a). Related Federal regulations state that ''Interest on cash deposited to secure immigration bonds will be at the rate as determined by the Secretary of the Treasury, but in no case will exceed 3 per centum per annum or be less than zero.'' 8 CFR 293.2. Treasury has determined that interest on the bonds will vary quarterly and will accrue during each calendar quarter at a rate equal to the lesser of the average of the bond equivalent rates on 91-day Treasury bills auctioned during the preceding calendar quarter, or 3 per centum per annum, but in no case less than zero. [FR Doc. 2015–18545]. In addition to this Notice, Treasury posts the current quarterly rate in Table 2b—Interest Rates for Specific Legislation on the Treasury Direct website.

The Deputy Assistant Secretary for Public Finance, Gary Grippo, having reviewed and approved this document, is delegating the authority to electronically sign this document to Heidi Cohen, Federal Register Liaison for the Department, for purposes of publication in the **Federal Register**.

Heidi Cohen,

Federal Register Liaison.

[FR Doc. 2024–00148 Filed 1–5–24; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF VETERANS AFFAIRS

Research Advisory Committee on Gulf War Veterans' Illnesses, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. Ch. 10., that the Research Advisory Committee on Gulf War Veterans' Illnesses (hereinafter the Committee) will meet by teleconference on February 12, 2024. The meeting will begin at 11 a.m. Eastern Standard Time (EST) and adjourn at 3 p.m. ET.

The open session will be available to the public by connecting to Webex URL: *https://veteransaffairs.webex.com/veteransaffairs/j.php?MTID=m8b762dc766702f16f2ce55ccd04b8466.* Or, join by phone: 1–833–558–0712 Toll-free; meeting number (access code): 2761 223 7275. Meeting password: GWVets1991!

The purpose of the Committee is to provide advice and make recommendations to the Secretary of Veterans Affairs on proposed research studies, research plans, and research strategies relating to the health consequences of military service in the Southwest Asia theater of operations during the Gulf War in 1990–91.

The Committee will review VA program activities related to Gulf War Veterans' illnesses and updates on relevant scientific research published since the last Committee meeting. This meeting will focus on Federal Advisory Committee annual training, the Committee Charter and deliberation of Committee recommendations.

Time will be allocated for receiving public comments on February 12, 2024 at 2:30 p.m. EST. Individuals wishing to make public comments should contact Marsha Turner at *VARACGWVI@va.gov.* Public comment speakers are requested to submit a 1–2-page summary of their comments for inclusion in the official meeting record. Written comments will also be accepted for the record. Members of the public who have confirmed public speaker registrations will be allowed to provide public comment first followed by non-registered speakers time permitting. Each public comment speaker will be held to a 5-minute time limit. Individuals wishing to seek additional information should contact Dr. Karen Block, Designated Federal Officer, at *Karen.Block@va.gov.*

Dated: January 3, 2024.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2024–00164 Filed 1–5–24; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Cost of Living Adjustments for Service-Connected Benefits

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: As required by the Veterans' Compensation Cost-of-Living Adjustment Act of 2023, the Department of Veterans Affairs (VA) is hereby giving notice of adjustments in certain benefit rates. These adjustments affect the compensation program.

DATES: These adjustments became effective on December 1, 2023.

FOR FURTHER INFORMATION CONTACT: Claire Starke, Policy Staff (211B), Compensation Service, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, 202–461–9700. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: Section 2 of Public Law 118–6 provides for an

increase in each of the rates in sections 1114, 1115(1), and 1162 of title 38, United States Code. VA is required to increase these benefit rates by the same percentage as increases in the benefit amounts payable under title II of the Social Security Act. The increased rates are required to be published in the **Federal Register**.

The Social Security Administration has announced that there will be a 3.2% cost-of-living increase in Social Security benefits for 2024. Therefore, applying the same percentage, the following rates for VA's compensation program became effective on December 1, 2023:

	Monthly rate
Disability Compensation [38 U.S.C. 1114]	
Disability evaluation percentage:	
10	$171.23
20	338.49
30	524.31
40	755.28
50	1,075.16
60	1,361.88
70	1,716.28
80	1,995.01
90	2,241.91
100	3,737.85
38 U.S.C. 1114(k) through (t)):	
38 U.S.C. 1114(k)	132.74
38 U.S.C. 1114(l)	4,651.06
38 U.S.C. 1114(m)	5,132.92
38 U.S.C. 1114(n)	5,839.08
38 U.S.C. 1114(o)	6,526.64
38 U.S.C. 1114(p)	6,526.64
38 U.S.C. 1114(r)	2,799.43; 4,170.59
38 U.S.C. 1114(s)	4,183.85
38 U.S.C. 1114(t)	4,170.59
Additional Compensation for Dependents [38 U.S.C. 1115(1)]	
38 U.S.C. 1115(1)(A)	208.40
38 U.S.C. 1115(1)(B)	361.02; 103.55
38 U.S.C. 1115(1)(C)	139.37; 103.55
38 U.S.C. 1115(1)(D)	167.26
38 U.S.C. 1115(1)(E)	399.54
38 U.S.C. 1115(1)(F)	334.49
Clothing Allowance [38 U.S.C. 1162]	
$999.51 per year.	

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved and signed this document on January 2, 2024, 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.

Luvenia Potts,

Regulation Development Coordinator, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2024–00160 Filed 1–5–24; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Joint Biomedical Laboratory Research and Development and Clinical Science Research and Development Services Scientific Merit Review Board, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. ch.10, that a meeting of the Joint Biomedical Laboratory Research and Development and Clinical Science Research and Development Services Scientific Merit Review Board will be held January 30, 2024, via Webex. The meeting will be held between 3 p.m. and 5 p.m. EDT. The meeting will be closed to the public from 3:30–5 p.m. EDT for the discussion, examination and reference to the research applications and scientific review. Discussions will involve reference to staff and consultant critiques of research proposals. Discussions will deal with scientific merit of each proposal and qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Additionally, premature disclosure of research information could significantly obstruct implementation of proposed agency action regarding the research proposals. As provided by Public Law 92–463 subsection 10(d), as amended by Public Law 94–409, closing the committee meeting is in accordance with 5 U.S.C. 552b(c) (6) and (9)(B).

The objective of the Board is to provide for the fair and equitable selection of the most meritorious research projects for support by VA research funds and to offer advice for research program officials on program priorities and policies. The ultimate objective of the Board is to ensure the high quality and mission relevance of VA's legislatively mandated Biomedical Laboratory and Clinical Science Research and Development programs.

Board members advise the Directors of the Biomedical Laboratory and Clinical Sciences Research Services and the Chief Research and Development Officer on the scientific and technical merit, the mission relevance, and the protection of human subjects of Biomedical Laboratory and Clinical Sciences Research and Development proposals. The Board does not consider grants, contracts, or other forms of extramural research.

Members of the public may attend the open portion of the meeting. The time limited agenda does not enable public comments or presentations. To attend the open portion of the meeting (3–3:30 p.m. EDT), the public may join by dialing the phone number 1–404–397–1596 and entering the meeting number (access code): 2763 451 0764.

Written public comments must be sent to Michael R. Burgio, Ph.D., Designated Federal Officer, Office of Research and Development, Department of Veterans Affairs (14RD), 810 Vermont Avenue NW, Washington, DC 20420, or to *Michael.Burgio@va.gov* at least five days before the meeting via the email listed above. The written public comments will be shared with the board members. The public may not attend the closed portion of the meeting as disclosure of research information could significantly obstruct implementation of proposed agency action regarding the research proposals (Pub. L. 92–463 subsection 10(d), as amended by Pub. L. 94–409, closing the committee meeting is in accordance with title 5 U.S.C. 552b(c)(6) and (9)(B).

Dated: January 3, 2024.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2024–00162 Filed 1–5–24; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 89 Monday,
No. 5 January 8, 2024

Part II

Securities and Exchange Commission

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Establish Fees for Industry Members Related to Certain Historical Costs of the National Market System Plan Governing the Consolidated Audit Trail; Notice

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99257; File No. SR–MEMX–2023–40]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Establish Fees for Industry Members Related to Certain Historical Costs of the National Market System Plan Governing the Consolidated Audit Trail

December 29, 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 December 26, 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 establish fees for Industry Members [3] related to certain historical costs of the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'') incurred prior to January 1, 2022. These fees would be payable to Consolidated Audit Trail, LLC (''CAT LLC'' or ''the Company'') [4] and referred to as Historical CAT Assessment 1, and would be described in a section of the Exchange's fee schedule entitled ''Consolidated Audit Trail Funding Fees.'' The fee rate for Historical CAT Assessment 1 will be $0.000015 per executed equivalent share. CAT Executing Brokers will receive their first monthly invoice for Historical CAT Assessment 1 in April 2024 calculated based on their transactions as CAT Executing Brokers for the Buyer (''CEBB'') and/or CAT Executing Brokers for the Seller (''CEBS'') in March 2024. The text of the proposed rule change is provided in Exhibit 5.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 11, 2012, the Commission adopted Rule 613 of Regulation NMS, which required the self-regulatory organizations (''SROs'') to submit a national market system (''NMS'') plan to create, implement and maintain a consolidated audit trail that would capture customer and order event information for orders in NMS securities across all markets, from the time of order inception through routing, cancellation, modification or execution.[5] On November 15, 2016, the Commission approved the CAT NMS Plan.[6] Under the CAT NMS Plan, the Operating Committee has the discretion to establish funding for CAT LLC to operate the CAT, including establishing fees for Industry Members to be assessed by CAT LLC that would be implemented on behalf of CAT LLC by the Participants.[7] The Operating Committee adopted a revised funding model to fund the CAT (''CAT Funding Model''). On September 6, 2023, the Commission approved the CAT Funding Model, after concluding that the model was reasonable and that it satisfied the requirements of Section 11A of the Exchange Act and Rule 608 thereunder.[8]

The CAT Funding Model provides a framework for the recovery of the costs to create, develop and maintain the CAT, including providing a method for allocating costs to fund the CAT among Participants and Industry Members. The CAT Funding Model establishes two categories of fees: (1) CAT fees assessed by CAT LLC and payable by certain Industry Members to recover a portion of historical CAT costs previously paid by the Participants (''Historical CAT Assessment'' fees); and (2) CAT fees assessed by CAT LLC and payable by Participants and Industry Members to fund prospective CAT costs (''Prospective CAT Costs'' fees).[9]

Under the CAT Funding Model, ''[t]he Operating Committee will establish one or more fees (each a 'Historical CAT Assessment') to be payable by Industry Members with regard to CAT costs previously paid by the Participants ('Past CAT Costs').'' [10] In establishing a Historical CAT Assessment, the Operating Committee will determine a ''Historical Recovery Period'' and calculate a ''Historical Fee Rate'' for that Historical Recovery Period. Then, for each month in which a Historical CAT Assessment is in effect, each CEBB and CEBS would be required to pay the fee—the Historical CAT Assessment—for each transaction in Eligible Securities executed by the CEBB or CEBS from the prior month as set forth in CAT Data, where the Historical CAT Assessment for each transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by one-third and by the Historical Fee Rate.[11]

Each Historical CAT Assessment to be paid by CEBBs and CEBSs is designed to contribute toward the recovery of two-thirds of the Historical CAT Costs. Because the Participants previously have paid Past CAT Costs via loans to the Company, the Participants would not be required to pay any Historical CAT Assessment. In lieu of a Historical

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] An ''Industry Member'' is defined as ''a member of a national securities exchange or a member of a national securities association.'' *See* Rule 4.5(u). *See also* Section 1.1 of the CAT NMS Plan. Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the CAT NMS Plan and/or the CAT Compliance Rule. *See* Rule 4.5.

[4] The term ''CAT LLC'' may be used to refer to Consolidated Audit Trail, LLC or CAT NMS, LLC, depending on the context.

[5] Securities Exchange Act Rel. No. 67457 (July 18, 2012), 77 FR 45721 (Aug. 1, 2012).

[6] Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (''CAT NMS Plan Approval Order'').

[7] Section 11.1(b) of the CAT NMS Plan.

[8] Securities Exchange Act Rel. No. 98290 (Sept. 6, 2023), 88 FR 62628 (Sept. 12, 2023) (''CAT Funding Model Approval Order'').

[9] Under the CAT Funding Model, the Operating Committee may establish one or more Historical CAT Assessments. Section 11.3(b) of the CAT NMS Plan. This filing only establishes Historical CAT Assessment 1 related to certain Historical CAT Costs as described herein; it does not address any other potential Historical CAT Assessment related to other Historical CAT Costs. In addition, under the CAT Funding Model, the Operating Committee also may establish CAT Fees related to CAT costs going forward. Section 11.3(a) of the CAT NMS Plan. This filing does not address any potential CAT Fees related to CAT costs going forward. Any such other fee for any other Historical CAT Assessment or CAT Fee for Prospective CAT Costs will be subject to a separate fee filing.

[10] Section 11.3(b) of the CAT NMS Plan.

[11] In approving the CAT Funding Model, the Commission stated that, ''[i]n the Commission's view, the proposed recovery of the Past CAT Costs via the Historical CAT Assessment is reasonable.'' CAT Funding Model Approval Order at 62662.

CAT Assessment, the Participants' one-third share of Historical CAT Costs will be paid by the cancellation of loans made by the Participants to the Company on a pro rata basis based on the outstanding loan amounts due under the loans, instead of through the payment of a CAT fee.[12] In addition, Participants also will be 100% responsible for certain Excluded Costs (as discussed below).

CAT LLC proposes to charge CEBBs and CEBSs (as described in more detail below) Historical CAT Assessment 1 to recover certain historical CAT costs incurred prior to January 1, 2022, in accordance with the CAT Funding Model. To implement this fee on behalf of CAT LLC, the CAT NMS Plan requires the Participants to ''file with the SEC under Section 19(b) of the Exchange Act any such fees on Industry Members that the Operating Committee approves, and such fees shall be labeled as 'Consolidated Audit Trail Funding Fees.' '' [13] The Plan further states that ''Participants will be required to file with the SEC pursuant to Section 19(b) of the Exchange Act a filing for each Historical CAT Assessment.'' [14] Accordingly, the purpose of this filing is to implement a Historical CAT Assessment on behalf of CAT LLC for Industry Members, referred to as Historical CAT Assessment 1, in accordance with the CAT NMS Plan.[15]

(1) CAT Executing Brokers

Historical CAT Assessment 1 will be charged to each CEBB and CEBS for each applicable transaction in Eligible Securities.[16] The CAT NMS Plan defines a ''CAT Executing Broker'' to mean:

(a) with respect to a transaction in an Eligible Security that is executed on an exchange, the Industry Member identified as the Industry Member responsible for the order on the buy-side of the transaction and the Industry Member responsible for the sell-side of the transaction in the equity order trade event and option trade event in the CAT Data submitted to the CAT by the relevant exchange pursuant to the Participant Technical Specifications; and (b) with respect to a transaction in an Eligible Security that is executed otherwise than on an exchange and required to be reported to an equity trade reporting facility of a registered national securities association, the Industry Member identified as the executing broker and the Industry Member identified as the contra-side executing broker in the TRF/ORF/ADF transaction data event in the CAT Data submitted to the CAT by FINRA pursuant to the Participant Technical Specifications; provided, however, in those circumstances where there is a non-Industry Member identified as the contra-side executing broker in the TRF/ORF/ADF transaction data event or no contra-side executing broker is identified in the TRF/ORF/ADF transaction data event, then the Industry Member identified as the executing broker in the TRF/ORF/ADF transaction data event would be treated as CAT Executing Broker for the Buyer and for the Seller.[17]

The following fields of the Participant Technical Specifications indicate the CAT Executing Brokers for the transactions executed on an exchange.

EQUITY ORDER TRADE (EOT) *

#	Field name	Data type	Description	Include key
12.*n*.8/13.*n*.8	member	Member Alias	The identifier for the member firm that is responsible for the order on this side of the trade. Not required if there is no order for the side as indicated by the NOBUYID/NOSELLID instruction. This must be provided if orderID is provided.	C.

* See footnote 18.[18]

OPTION TRADE (OT) *

#	Field name	Data type	Description	Include key
16.*n*.13/17.*n*.13	member	Member Alias	The identifier for the member firm that is responsible for the order.	R.

* See footnote 19.[19]

In addition, the following fields of the Participant Technical Specifications would indicate the CAT Executing Brokers for the transactions executed otherwise than on an exchange.

[12] Section 11.3(b)(ii) of the CAT NMS Plan.

[13] Section 11.1(b) of the CAT NMS Plan.

[14] Section 11.3(b)(iii)(B)(I) of the CAT NMS Plan.

[15] Note that there may be one or more Historical CAT Assessments depending on the timing of the completion of the Financial Accountability Milestones, among other things. Section 11.3(b) of the CAT NMS Plan.

[16] In its approval of the CAT Funding Model, the Commission determined that charging CAT fees to CAT Executing Brokers was reasonable. In reaching this conclusion the Commission noted that the use of CAT Executing Brokers is appropriate because the CAT Funding Model is based upon the calculation of *executed* equivalent shares, and, therefore, charging CAT Executing Brokers would reflect their executing role in each transaction. Furthermore, the Commission noted that, because CAT Executing Brokers are already identified in transaction reports from the exchanges and FINRA's equity trade reporting facilities recorded in CAT Data, charging CAT Executing Brokers could streamline the billing process. CAT Funding Model Approval Order at 62629.

[17] Section 1.1 of the CAT NMS Plan. Note that CEBBs and CEBSs may, but are not required to, pass-through their CAT fees to their clients, who may, in turn, pass their fees to their clients until they are imposed ultimately on the account that executed the transaction. *See* CAT Funding Model Approval Order at 62649.

[18] *See* Table 23, Section 4.7 (Order Trade Event) of the CAT Reporting Technical Specifications for Plan Participants, Version 4.1.0–r20 (Sept. 25, 2023), *https://www.catnmsplan.com/sites/default/files/2023-09/9.25.2023-CAT_Reporting_Technical_Specifications_for_Participants_4.1.0-r20.pdf* (''CAT Reporting Technical Specifications for Plan Participants'').

[19] *See* Table 51, Section 5.2.5.1 (Simple Option Trade Event) of the CAT Reporting Technical Specifications for Plan Participants.

TRF/ORF/ADF TRANSACTION DATA EVENT (TRF) *

#	Field name	Data type	Description	Include key
26	reportingExecutingMpid	Member Alias	MPID of the executing party	R.
28	contraExecutingMpid	Member Alias	MPID of the contra-side executing party	C.

* See footnote 20.[20]

(2) Calculation of Historical Fee Rate 1

The Operating Committee determined the Historical Fee Rate to be used in calculating Historical CAT Assessment 1 (''Historical Fee Rate 1'') by dividing the Historical CAT Costs for Historical CAT Assessment 1 (''Historical CAT Costs 1'') by the projected total executed share volume of all transactions in Eligible Securities for the Historical Recovery Period for Historical CAT Assessment 1 (''Historical Recovery Period 1''), as discussed in detail below. Based on this calculation, the Operating Committee has determined that Historical Fee Rate 1 would be $0.0000439371316687066 per executed equivalent share. This rate is then divided by three and rounded to determine the fee rate of $0.000015 per executed equivalent share that will be assessed to CEBBs and CEBSs, as also discussed in detail below.

(A) Executed Equivalent Shares for Transactions in Eligible Securities

Under the CAT NMS Plan, for purposes of calculating each Historical CAT Assessment, executed equivalent shares in a transaction in Eligible Securities will be reasonably counted as follows: (1) each executed share for a transaction in NMS Stocks will be counted as one executed equivalent share; (2) each executed contract for a transaction in Listed Options will be counted based on the multiplier applicable to the specific Listed Options (*i.e.,* 100 executed equivalent shares or such other applicable multiplier); and (3) each executed share for a transaction in OTC Equity Securities shall be counted as 0.01 executed equivalent share.[21]

(B) Historical CAT Costs 1

The CAT NMS Plan states that ''[t]he Operating Committee will reasonably determine the Historical CAT Costs sought to be recovered by each Historical CAT Assessment, where the Historical CAT Costs will be Past CAT Costs minus Past CAT Costs reasonably excluded from Historical CAT Costs by the Operating Committee. Each Historical CAT Assessment will seek to recover from CAT Executing Brokers two-thirds of Historical CAT Costs incurred during the period covered by the Historical CAT Assessment.'' [22] As described in detail below, Historical CAT Costs 1 would be $337,688,610. This figure includes Past CAT Costs of $401,312,909 minus certain Excluded Costs of $63,624,299. Participants collectively will remain responsible for one-third of Historical CAT Costs 1 (which is $112,562,870), plus the Excluded Costs of $63,624,299. CEBBs collectively will be responsible for one-third of Historical CAT Costs 1 (which is $112,562,870), and CEBSs collectively will be responsible for one-third of Historical CAT Costs 1 (which is $112,562,870).

The following describes in detail Historical CAT Costs 1 with regard to four separate historical time periods as well as Past CAT Costs excluded from Historical CAT Costs 1 (''Excluded Costs''). The following cost details are provided in accordance with the requirement in the CAT NMS Plan to provide in the fee filing ''a brief description of the amount and type of Historical CAT Costs, including (1) the technology line items of cloud hosting services, operating fees, CAIS operating fees, change request fees, and capitalized developed technology costs, (2) legal, (3) consulting, (4) insurance, (5) professional and administration and (6) public relations costs.'' [23] Each of the costs described below are reasonable, appropriate and necessary for the creation, implementation and maintenance of CAT.

(i) Historical CAT Costs Incurred Prior to June 22, 2020 (Pre-FAM Costs)

Historical CAT Costs 1 would include costs incurred by CAT prior to June 22, 2020 (''Pre-FAM Period'') and already funded by the Participants, excluding Excluded Costs (described further below). Historical CAT Costs 1 would include costs for the Pre-FAM Period of $143,919,521. The Participants would remain responsible for one-third of this cost (which they have previously paid) ($47,973,174), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third ($47,973,174) and CEBSs paying one-third ($47,973,174). These costs do not include Excluded Costs, as discussed further below. The following table breaks down Historical CAT Costs 1 for the Pre-FAM Period into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Historical CAT costs 1 for Pre-FAM period (prior to June 22, 2020) **
Capitalized Developed Technology Costs and Transition Fee *	$71,475,941
Technology Costs	33,568,579
Cloud Hosting Services	10,268,840
Operating Fees	21,085,485
CAIS Operating Fees	2,072,908
Change Request Fees	141,346
Legal	19,674,463
Consulting	17,013,414
Insurance	880,419

[20] *See* Table 61, Section 6.1 (TRF/ORF/ADF Transaction Data Event) of the CAT Reporting Technical Specifications for Plan Participants.

[21] Section 11.3(a)(i)(B) and 11.3(b)(i)(B) of the CAT NMS Plan. In approving the CAT Funding Model, the Commission concluded that ''the use of executed equivalent share volume as the basis of the proposed cost allocation methodology is reasonable and consistent with the approach taken by the funding principles of the CAT NMS Plan.'' CAT Funding Model Approval Order at 62640.

[22] Section 11.3(b)(i)(C) of the CAT NMS Plan.

[23] Section 11.3(b)(iii)(B)(II)(B) of the CAT NMS Plan.

Operating expense	Historical CAT costs 1 for Pre-FAM period (prior to June 22, 2020) **
Professional and administration	1,082,036
Public relations	224,669
Total Operating Expenses	143,919,521

* The non-cash amortization of these capitalized developed technology costs of $2,115,545 incurred during the period prior to June 22, 2020 have been appropriately excluded from the above table.[24]

** See footnote 25.[25]

The Pre-FAM Period includes a broad range of CAT-related activity from 2012 through June 22, 2020, including the evaluation of the requirements of SEC Rule 613, the development of the CAT NMS Plan, the evaluation and selection of the initial and successor Plan Processors, the commencement of the creation and implementation of the CAT to comply with Rule 613 and the CAT NMS Plan, including technical specifications for transaction reporting and regulatory access, and related technology and the commencement of reporting to the CAT. The following describes the costs for each of the categories for the Pre-FAM Period.

(a) Technology Costs—Cloud Hosting Services.

The $10,268,840 in technology costs for cloud hosting services represent costs incurred for services provided by the cloud services provider for the CAT, Amazon Web Services, Inc. (''AWS''), during the Pre-FAM Period.

As part of its proposal for acting as the successor Plan Processor for the CAT, FCAT selected AWS as a subcontractor to provide cloud hosting services. In 2019, after reviewing the capabilities of other cloud services providers, FCAT determined that AWS was the only cloud services provider at that time sufficiently mature and capable of providing the full suite of necessary cloud services for the CAT, including, for example, the security, resiliency and complexity necessary for the CAT computing requirements. The use of cloud hosting services is standard for this type of high-volume data activity and reasonable and necessary for implementation of the CAT, particularly given the substantial data volumes associated with the CAT.

Under the Plan Processor Agreement with FCAT, CAT LLC is required to pay FCAT the fees incurred by the Plan Processor for cloud hosting services provided by AWS as FCAT's subcontrator on a monthly basis for the cloud hosting services, and FCAT, in turn, pays such fees to AWS. The fees for cloud hosting services were negotiated by FCAT on an arm's length basis with the goals of managing cost and receiving services required to comply with the CAT NMS Plan and Rule 613, taking into consideration a variety of factors, including the expected volume of data, the breadth of services provided and market rates for similar services. The fees for cloud hosting services during the Pre-FAM Period were paid to FCAT by CAT NMS LLC [26] and subsequently Consolidated Audit Trail, LLC (as previously noted, both entities are referred to generally as ''CAT LLC''),[27] and FCAT, in turn, paid AWS. CAT LLC was funded via loan contributions by the Participants.[28]

AWS was engaged by FCAT to provide a broad array of cloud hosting services for the CAT, including data ingestion, data management, and analytic tools. Services provided by AWS include storage services, databases, compute services and other services (such as networking, management tools and DevOps tools). AWS also was engaged to provide various environments for CAT, such as development, performance testing, test and production environments.

The cost for AWS services for the CAT is a function of the volume of CAT Data. The greater the amount of CAT Data, the greater the cost of AWS services to the CAT. During the Pre-FAM Period from the engagement of AWS in February 2019 through June 2020, AWS provided cloud hosting services for volumes of CAT Data far in excess of the volume predictions set forth in the CAT NMS Plan. The CAT NMS Plan states, when all CAT Reporters are submitting their data to the CAT, it ''must be sized to receive[,] process and load more than 58 billion records per day,'' [29] and that ''[i]t is expected that the Central Repository will grow to more than 29 petabytes of raw, uncompressed data.'' [30] However, the volume of CAT Data for the Pre-FAM Period was far in excess of these predicted levels. By the end of this period, data submitted to the CAT included options and equities Participant Data,[31] Phase 2a and Phase 2b Industry Member Data [32] (including certain linkages), as well as SIP Data,[33] reference data and other types of Other Data.[34] The following chart provides data regarding the average daily volume, cumulative total events, total compute hours and storage footprint of the CAT during the Pre-FAM Period.[35]

[24] With respect to certain costs that were ''appropriately excluded,'' such excluded costs relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As such costs have already been otherwise reflected in the filing, their inclusion would double count the capitalized technology costs. In addition, amortization is a non-cash expense.

[25] The costs described in this table of costs for the Pre-FAM Period were calculated based upon CAT LLC's review of applicable bills and invoices and related financial statements. CAT LLC financial statements are available on the CAT website. In addition, in accordance with Section 6.6(a)(i) of the CAT NMS Plan, in 2018 CAT LLC provided the SEC with ''an independent audit of fees, costs, and expenses incurred by the Participants on behalf of the Company prior to the Effective Date of the Plan that will be publicly available.'' The audit is available on the CAT website.

[26] CAT NMS, LLC was formed by FINRA and the U.S. national securities exchanges to implement the requirements of SEC Rule 613 under the Exchange Act. SEC Rule 613 required the SROs to jointly submit to the SEC the CAT NMS Plan to create, implement and maintain the CAT. The SEC approved the CAT NMS Plan on November 15, 2016. CAT NMS Plan Approval Order.

[27] On August 29, 2019, the Participants formed a new Delaware limited liability company named Consolidated Audit Trail, LLC for the purpose of conducting activities related to the CAT from and after the effectiveness of the proposed amendment of the CAT NMS Plan to replace CAT NMS, LLC. *See* Securities Exchange Act Rel. No. 87149 (Sept. 27, 2019), 84 FR 52905 (Oct. 3, 2019).

[28] For each of the costs paid by CAT NMS, LLC and Consolidated Audit Trail, LLC as discussed throughout this filing, CAT NMS, LLC and Consolidated Audit Trail, LLC paid these costs via loan contributions by the Participants to CAT NMS, LLC and Consolidated Audit Trail, LLC, respectively.

[29] Appendix D–4 of the CAT NMS Plan at n.262.

[30] Appendix D–5 of the CAT NMS Plan.

[31] *See* Section 6.3(d) of the CAT NMS Plan.

[32] *See* Securities Exchange Rel. No. 88702 (Apr. 20, 2020), 85 FR 23075 (Apr. 24, 2020) (''Phased Reporting Exemptive Relief Order'') for a description of Phase 2a and Phase 2b Industry Member Data.

[33] *See* Section 6.5(a)(ii) of the CAT NMS Plan.

[34] *See* Appendix C–108 of the CAT NMS Plan.

[35] Note that the volume data described in this table does not include CAIS data.

	Date range: 3/29/19 to 4/12/20 *	Date range: 4/13/20 to 6/21/20 **
Average Daily Volume in Billions:		
Participant—Equities	5	5
Participant—Options	80	981
Industry Member—Equities	.....	3
Industry Member—Options	.....	0.04
SIP—Options & Equities	64	70
Average Total Daily Volume	149	166
Cumulative Total Events for the Period	3,890	4,990
Total Compute Hours for the Period	[36] N/A	5,663,247
Storage Footprint at End of Period (Petabytes)	30.57	47.96

* The Participant Equities in RSA format.
** Start of Industry Member reporting on 4/13/2020.

(b) Technology Costs—Operating Fees

The $21,085,485 in technology costs related to operating fees represent costs incurred with regard to activities of FCAT as the Plan Processor. Operating fees are those fees paid by CAT LLC to FCAT as the Plan Processor to operate and maintain the CAT and to perform business operations related to the system, including compliance, security, testing, training, communications with the industry (*e.g.,* management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management as required by the CAT NMS Plan.

FCAT was selected to assume the role of the successor Plan Processor. Prior to this selection, the Participants engaged in discussions with two prior Bidders [37] for the successor Plan Processor role. The Operating Committee formed a Selection Subcommittee in accordance with Section 4.12 of the CAT NMS Plan to evaluate and review Bids and to make a recommendation to the Operating Committee with respect to the selection of the successor Plan Processor. In an April 9, 2019 letter to the Commission, the Participants described the reasons for its selection of the successor Plan Processor:

The Selection Subcommittee considered factors including, but not limited to, the following, in recommending FINRA to the Operating Committee as the successor Plan Processor:

a. FINRA's specialized technical expertise and capabilities in the area of broker-dealer technology;

b. The need to appoint a successor Plan Processor with specialized expertise to develop, implement, and maintain the CAT System in accordance with the CAT NMS Plan and SEC Rule 613;

c. FINRA's detailed proposal in response to CATLLC's recent inquiries; and

d. FINRA's data query and analytics systems demonstration to the Participants.

Based on these and other factors, the Selection Subcommittee determined that FINRA was the most appropriate Bidder to become the successor Plan Processor.[38]

On February 26, 2019, the Operating Committee (with FINRA recusing itself) voted to select FINRA as the successor Plan Processor pursuant to Section 6.1(t) of the CAT NMS Plan.[39] On March 29, 2019, CAT LLC and FCAT (a wholly owned subsidiary of FINRA) entered into a Plan Processor Agreement pursuant to which FCAT would perform the functions and duties of the Plan Processor contemplated by the CAT NMS Plan, including the management and operation of the CAT.

Under the Plan Processor Agreement with FCAT, CAT LLC is required to pay FCAT a negotiated monthly fixed price for the operation of the CAT. This fixed price contract was negotiated on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan and Rule 613, taking into consideration a variety of factors, including the breadth of services provided and market rates for similar types of activity. The operating fees during the Pre-FAM Period were paid to FCAT by CAT LLC.

From March 29, 2019 (the commencement of the Plan Processor Agreement with FCAT) through June 22, 2020 (the end of the Pre-FAM Period), the Plan Processor's activities with respect to the CAT included the following:

- Commenced user acceptance testing with market data provided by Exegy Incorporated (''Exegy''), a market data provider; [40]
- Published Technical Specifications and related reporting scenarios documents for Phase 2a, 2b and 2c reporting for Industry Members, after substantial engagement with SEC staff, Industry Members and Participants on the Technical Specifications;
- Facilitated testing for Phase 2a and 2b reporting for Industry Members;
- Began developing Technical Specifications and related reporting scenarios documents for Phase 2d reporting for Industry Members, after substantial engagement with SEC staff, Industry Members and Participants on the Technical Specifications;
- Published Central Repository Access Technical Specifications, and provided regulator access to test data from Industry Members;
- Facilitated Participant exchanges that support options market makers sending Quote Sent Time to the CAT;
- Facilitated the introduction of OPRA and Options NBBO Other Data to CAT;
- Addressed compliance items, including drafting CAT policies and procedures, and addressing requirements under Regulation SCI;
- Provided support to the Operating Committee, the Compliance Subcommittee and CAT working groups;
- Assisted with interpretive efforts and exemptive requests regarding the CAT NMS Plan;
- Oversaw the security of the CAT;
- Monitored the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provided support to subcontractors under the Plan Processor Agreement;
- Provided support in discussions with Participants, SEC and its staff;
- Operated the FINRA CAT Helpdesk, which is the primary source for answers to questions about CAT, including questions regarding: clock synchronization, firm reporting responsibilities, interpretive questions,

[36] Note that, although there were compute hours during this period, data related to such compute hours are no longer available in current data.

[37] The term ''Bidder'' is defined in Section 1.1 of the CAT NMS Plan.

[38] Letter from Michael J. Simon, Chair, CAT NMS, LLC Operating Committee, to Brent J. Fields, Secretary, SEC (Apr. 9, 2019), *https://www.sec.gov/divisions/marketreg/rule613-info-notice-of-plan-processor-selection-040919.pdf.*

[39] *Id.*

[40] The use of Exegy to provide market data, including the costs and market data provided, is discussed below in Section 3(a)(2)(B)(i)(i).

technical specifications for reporting to CAT and more;

• Facilitated communications with the industry, including via FAQs, CAT Alerts, meetings, presentations and webinars;

• Administered the CAT website and all of its content; [41] and

• Provided technical support and assistance with connectivity, data access, and user support, including the use of CAT Data and query tools, for Participants and the SEC staff.

(c) Technology Costs—CAIS Operating Fees

The $2,072,908 in technology costs related to CAIS operating fees represent the fees paid for FCAT's subcontractor charged with the development and operation of CAT's Customer and Account Information System (''CAIS''). The CAT is required under the CAT NMS Plan to capture and store Customer Identifying Information and Customer Account Information in a database separate from the transactional database and to create a CAT-Customer-ID for each Customer.

During the Pre-FAM Period, the CAIS-related services were provided by the Plan Processor through the Plan Processor's subcontractor, Kingland Systems Incorporation (''Kingland''). Kingland had experience operating in the securities regulatory technology space, and as a part of its proposal for acting as the Plan Processor for the CAT, FCAT selected Kingland as a subcontractor to provide certain CAIS-related services.

Under the Plan Processor Agreement with FCAT, CAT LLC is required to pay to the Plan Processor the fees incurred by the FCAT for CAIS-related services provided by FCAT through Kingland on a monthly basis. FCAT negotiated the fees for Kingland's CAIS-related services on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan, taking into consideration a variety of factors, including the services to be provided and market rates for similar types of activity. The fees for CAIS-related services during the Pre-FAM Period were paid by CAT LLC to FCAT. FCAT, in turn, paid Kingland. During the Pre-FAM Period, Kingland began development of the CAIS Technical Specifications and the building of CAIS. In addition, Kingland also worked on the build related to the CCID Alternative, an alternative approach to customer information that was not included in the CAT NMS Plan as originally adopted.[42] Furthermore, Kingland also worked on the acceleration of the reporting of large trader identifiers (''LTID'') earlier than originally contemplated during this period, in accordance with exemptive relief granted by the SEC.[43]

(d) Technology Costs—Change Request Fees

The technology costs related to change request fees include costs related to certain modifications, upgrades or other changes to the CAT. Change requests are standard practice and necessary to reflect operational changes, including changes related to new market developments, such as new market participants. In general, if CAT LLC determines that a modification, upgrade or other changes to the functionality or service is necessary and appropriate, CAT LLC will submit a request for such a change to the Plan Processor. The Plan Processor will then respond to the request with a proposal for implementing the change, including the cost (if any) of such a change. CAT LLC then determines whether to approve the proposed change. The change request costs were paid by CAT LLC to FCAT. During the Pre-FAM Period, CAT LLC incurred costs of $141,346 related to change requests implemented by FCAT. Such change requests related to a development fee regarding the OPRA and SIP data feeds, and the reprocessing of certain exchange data.[44]

(e) Technology Costs—Capitalized Developed Technology Costs

This category of costs includes capitalizable application development costs incurred in the development of the CAT. The capitalized developed technology costs for the Pre-FAM Period of $71,475,941 relate to technology provided by the Initial Plan Processor and the successor Plan Processor.

Initial Plan Processor: Thesys CAT, LLC. The capitalized developed technology costs related to the Initial Plan Processor include costs incurred with regard to testing for Participant reporting, Participant reporting to the CAT, a security assessment of the CAT, the development of the billing function for the CAT, and a Plan Processor transition fee.

On January 17, 2017, the Selection Committee of the CAT NMS Plan selected the Initial Plan Processor, Thesys Technologies, LLC, for the CAT NMS Plan pursuant to Article V of the CAT NMS Plan.[45] The Participants utilized a request for proposal (''RFP'') to seek proposals to build and operate the CAT, receiving a number of proposals in response to the RFP. The Participants carefully reviewed and considered each of the proposals, including holding in-person meetings with each of the Bidders. After several rounds of review, the Participants selected the Initial Plan Processor in accordance with the CAT NMS Plan, taking into consideration that the Initial Plan Processor had experience operating in the securities regulatory technology space, among other considerations. On April 6, 2017, CAT LLC entered into an agreement with Thesys CAT LLC (''Thesys CAT''), a Thesys affiliate, to perform the functions and duties of the Plan Processor contemplated by the CAT NMS Plan, including the management and operation of the CAT. Under the agreement, CAT LLC would pay Thesys CAT a negotiated, fixed price fee for its role as the Initial Plan Processor. Effective January 30, 2019, the Plan Processor Agreement with Thesys CAT was terminated, and FCAT was subsequently selected as the successor Plan Processor.

From January 17, 2017 through January 30, 2019, the time in which the Thesys CAT was engaged for the CAT, but excluding the period from November 15, 2017 through November 15, 2018, the Initial Plan Processor engaged in various activities with respect to the CAT, including preparing iterative drafts of Participant Technical Specifications, Industry Member Technical Specifications and the Central Repository Access Technical Specifications. Thesys CAT initiated and maintained the Participant reporting per the Participant Technical Specifications. In addition, Thesys CAT also developed CAT technology, addressed compliance items, including drafting CAT policies and procedures, addressing Regulation SCI requirements, establishing a CAT Compliance Officer and a Chief Information Security Officer, and addressed security-related matters for the CAT. Furthermore, Thesys CAT performed transition services related to the transition from Thesys CAT to FCAT as the successor

[41] The CAT website is *https://www.catnmsplan.com.*

[42] For a discussion of the CCID Alternative, *see* Securities Exchange Act Rel. No. 88393 (Mar. 17, 2020), 85 FR 16152 (Mar. 20, 2020).

[43] Phased Reporting Exemptive Relief Order at 23079–80.

[44] Note that CAT LLC also has incurred costs related to specific Industry Members (*e.g.,* reprocessing costs related to Industry Member reporting errors).

[45] Letter from the Participants to Brent J. Fields, Secretary, SEC (Jan. 18, 2017), *https://www.sec.gov/divisions/marketreg/rule613-info-notice-of-plan-processor-selection.pdf.*

Plan Processor from January 30, 2019 through April 15, 2019.

Successor Plan Processor: FCAT. The capitalized developed technology costs related to FCAT include: (1) development costs incurred during the application development stage to meet various agreed-upon milestones regarding the CAT, including the completion of go-live functionality related to options ingestion and validation, equities regulatory services agreement query tool updates and unlinked options data query, options linkages release, Industry Member Phase 2a file submission and data integrity (including error corrections), and Industry Member testing, including reporting relationships, ATS order type management, basic reporting statistics, SFTP data integrity feedback and error correction; (2) costs related to certain modifications, upgrades, or other changes to the CAT that were not contemplated by the agreement between CAT LLC and the Plan Processor, including a one-time development fee for a secure analytics workspace, a one-time development fee of an Industry Member connectivity solution, and a one-time development fee for the acceleration of multi-factor authentication; (3) CAIS implementation fees; and (4) license fees.

(f) Legal Costs

The legal costs of $19,674,463 represent the fees paid for legal services provided by two law firms, Wilmer Cutler Pickering Hale and Dorr LLP (''WilmerHale'') and Pillsbury Winthrop Shaw Pittman LLP (''Pillsbury''), during the Pre-FAM Period. The legal costs exclude those costs incurred from November 15, 2017 through November 15, 2018.

Law Firm: WilmerHale. Following the adoption of Rule 613, the Participants determined it was necessary to engage external legal counsel to advise the Participants with respect to corporate and regulatory legal matters related to the CAT, including drafting and developing the CAT NMS Plan. The Participants considered a variety of factors in their analysis of prospective law firms, including (1) the firm's qualifications, resources and expertise, (2) the firm's relevant experience and understanding of the regulatory matters raised by the CAT and in advising on matters of similar scope, (3) the composition of the legal team, and (4) professional fees. Following a series of interviews, the Participants acting as a consortium determined that WilmerHale was well qualified given the balance of these considerations and engaged WilmerHale in February 2013.

WilmerHale's billing rates are negotiated on an annual basis and are determined with reference to the rates charged by other leading law firms for similar work. The Participants assess WilmerHale's performance and review prospective budgets and staffing plans submitted by WilmerHale on an annual basis. WilmerHale's compensation arrangements are reasonable and appropriate, and in line with the rates charged by other leading law firms for similar work.

The legal costs for WilmerHale during the Pre-FAM Period included costs incurred from 2013 until June 22, 2020 to address corporate and regulatory legal matters related to the CAT. The legal fees for this law firm during the period from February 2013 until the formation of the CAT NMS, LLC on November 15, 2016 were paid directly by the exchanges and FINRA to WilmerHale. After the formation of CAT NMS LLC, the legal fees were paid by CAT LLC to WilmerHale.

After WilmerHale was engaged in 2013 through the end of the Pre-FAM Period on June 22, 2020 (excluding the legal costs from November 15, 2017 through November 15, 2018), WilmerHale provided legal assistance to the CAT on a variety of matters, including with regard to the following:

- Analyzed various legal matters associated with the Selection Plan, and drafted an amendment to Selection Plan;
- Assisted with the RFP and bidding process for the CAT Plan Processor;
- Analyzed legal matters related to the Development Advisory Group (''DAG'');
- Drafted the CAT NMS Plan, analyzed various items related to the CAT NMS Plan, and responded to comment letters on CAT NMS Plan;
- Provided legal support for the formation of the legal entity, the governance of the CAT, including governance support prior to the adoption of the CAT NMS Plan, which involved support for the full committee of exchanges and FINRA as well as subcommittees of this group (*e.g.,* Joint Subcommittee Group, Technical, Industry Outreach, Cost and Funding and Other Products) and the DAG, governance support during the transition to the new governance structure under the CAT NMS Plan; and governance support after the adoption of the CAT NMS Plan, which involved support for the Operating Committee, Advisory Committee, Compliance Subcommittee and CAT working groups;
- Assisted with the development of the CAT funding model and drafted related amendments of the CAT NMS Plan and related filings;
- Negotiated and drafted the plan processor agreements with the Initial Plan Processor and the successor Plan Processor;
- Provided assistance with compliance with Regulation SCI;
- Assisted with clock synchronization study;
- Provided assistance with respect to the establishment of CAT security;
- Drafted exemptive requests from CAT NMS Plan requirements, including with regard to options market maker quotes, Customer IDs, CAT Reporter IDs, linking allocations to executions, CAT reporting timeline, FDIDs, customer and account information, timestamp granularity, small industry members, data facility reporting and linkage, allocation reports, SRO-assigned market participant identifiers and cancelled trade indicators, thereby seeking to implement changes that would be cost effective and benefit Industry Members and Participants;
- Assisted with the Implementation Plan required pursuant to Section 6.6(c)(i) of the CAT NMS Plan;
- Provided advice regarding CAT policies and procedures;
- Analyzed the SEC's amendment of the CAT NMS Plan regarding financial accountability;
- Provided interpretations of and related to the CAT NMS Plan;
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues; and
- Assisted with third party vendor agreements.

Law Firm: Pillsbury. The legal costs for CAT during the Pre-FAM Period include costs related to the legal services performed by Pillsbury. The Participants interviewed this law firm as well as other potential law firms to provide legal assistance regarding certain liability matters. After considering a variety of factors in its analysis, including the relevant expertise and fees of the firm, CAT LLC determined to hire Pillsbury in April 2019. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees were paid by CAT LLC to Pillsbury. The legal costs for Pillsbury during the Pre-FAM Period included costs incurred from April 2019 until June 22, 2020 to address legal matters regarding the agreements between CAT Reporters and CAT LLC concerning certain terms associated with CAT Reporting (the

''Reporter Agreement''). During that period, Pillsbury advised CAT LLC regarding applicable legal matters, participated in negotiations between the Participants and Industry Members, participated in meetings with senior SEC staff, the Chairman, and Commissioners, represented CAT LLC and the Participants in an SEC administrative proceeding, and drafted a proposed amendment to the CAT NMS Plan regarding liability matters. Liability issues related to the CAT are important matters that needed to be resolved and clarified. CAT LLC's efforts to seek such resolution and clarity work to the benefit of Participants, Industry Members and other market participants. Moreover, litigation involving CAT LLC is an expense of operating the CAT, and, therefore, is appropriately an obligation of both Participants and Industry Members under the CAT Funding Model.

(g) Consulting Costs

The consulting costs of $17,013,414 represent the fees paid to the consulting firm Deloitte & Touche LLP (''Deloitte'') as project manager during the Pre-FAM Period, from October 2012 until June 22, 2020. These consulting costs include costs for advisory services related to the operation of the CAT, and meeting facilitation and communications coordination, vendor support and financial analyses.

To help facilitate project management given the unprecedented complexity and scope of the CAT project, the Participants determined it was necessary to engage a consulting firm to assist with the CAT project in 2012, following the adoption of Rule 613. A variety of factors were considered in the analysis of prospective consulting firms, including (1) the firm's qualifications, resources, and expertise, (2) the firm's relevant experience and understanding of the regulatory issues raised by the CAT and in coordinating matters of similar scope, (3) the composition of the consulting team, and (4) professional fees. Following a series of interviews, the exchanges and FINRA as a consortium determined that Deloitte was well qualified given the balance of these considerations and engaged Deloitte on October 1, 2012.

Deloitte's fee rates are negotiated on an annual basis and are in line with market rates for this type of specialized consulting work. CAT LLC assesses Deloitte's performance and reviews prospective budgets and staffing plans submitted by Deloitte on an annual basis. Deloitte's compensation arrangements are reasonable and appropriate, and in line with the rates charged by other leading consulting firms for similar work.

The consulting costs for CAT during the period from 2012 until the formation of the CAT NMS, LLC were paid directly by the Participants to Deloitte. After the formation of CAT NMS, LLC, the consulting fees were paid by CAT LLC to Deloitte. CAT LLC reviewed the consulting fees each month and approved the invoices.

After Deloitte was hired in 2012 through the end of the Pre-FAM Period on June 22, 2020 (excluding the consulting costs from November 15, 2017 through November 15, 2018), Deloitte provided a variety of consulting services, including the following:

- Established and implemented program operations for the CAT project, including the program managment office and workstream design;
- Assisted with the Plan Processor selection process, including but not limited to, the development of the RFP and the bidder evaluation process, and facilitation and consolidation of the Participant's independent reviews;
- Assisted with the development and drafting of the CAT NMS Plan, including conducting cost-benefit studies, analyzing OATS and CAT requirements, and drafting appendices to the Plan;
- Assisted with cost and funding-related activities for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;
- Provided governance support to the CAT, including governance support prior to the adoption of the CAT NMS Plan, which involved support for the full committee of exchanges and FINRA as well as subcommittees of this group (*e.g.,* Joint Subcommittee Group, Technical, Industry Outreach, Cost and Funding and Other Products) and the DAG, governance support during the transition to the new governance structure under the CAT NMS Plan and governance support after the adoption of the CAT NMS Plan, which involved support for the Operating Committee, Advisory Committee, Compliance Subcommittee and CAT working groups;
- Provided support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings and communications, and interfacing with law firms and the SEC;
- Assisted with industry outreach and communications regarding the CAT, including assistance with industry outreach events, the development of the CAT website, frequently asked questions, and coordinating with the CAT LLC's public relations firm;
- Provided support for updating the SEC on the progress of the development of the CAT;
- Provided active planning and coordination with and support for the Initial Plan Processor with regard to the development of the CAT, and reported to the Participants on the progress;
- Coordinated efforts regarding the selection of the successor Plan Processor;
- Assisted with the transition from the Initial Plan Processor to the successor Plan Processor, including support for the Operating Committee and successor Plan Processor for the new role; and
- Provided support for third party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

(h) Insurance

The insurance costs of $880,419 represent the cost incurred for insurance for CAT during the Pre-FAM Period. Commencing in 2020, CAT LLC performed an evaluation of various potential alternatives for CAT insurance policies, which included engaging in discussions with different insurance companies and conducting cost comparisons of various alternative approaches to insurance. Based on an analysis of a variety of factors, including coverage and premiums, CAT LLC determined to purchase cyber security liability insurance, directors' and officers' liability insurance, and errors and omissions liability insurance from USI Insurance Services LLC (''USI''). Such policies are standard for corporate entities, and cyber security liability insurance is important for the CAT System. The annual premiums for these policies were competitive for the coverage provided. The annual premiums were paid by CAT LLC to USI.

(i) Professional and Administration Costs

In adopting the CAT NMS Plan, the Commission amended the Plan to add a requirement that CAT LLC's financial statements be prepared in compliance with GAAP, audited by an independent public accounting firm, and made publicly available.[46] The professional and administration costs include costs related to accounting and accounting advisory services to support the operating and financial functions of CAT, financial statement audit services by an independent accounting firm,

[46] Section 9.2 of the CAT NMS Plan.

preparation of tax returns, and various cash management and treasury functions. In addition, professional and administration costs for the Pre-FAM Period include costs related to the receipt of market data and a security assessment. The costs for these professional and administration services were $1,082,036 for the Pre-FAM Period.

Financial Advisory Firm: Anchin Accountants & Advisors (''Anchin''). CAT LLC determined to hire a financial advisory firm, Anchin, to assist with financial matters for the CAT in April 2018. CAT LLC interviewed Anchin as well as other potential financial advisory firms to assist with the CAT project, considering a variety of factors in its analysis, including the firm's relevant expertise and fees. The hourly fee rates for this firm were in line with market rates for these financial advisory services. The fees for these services were paid by CAT LLC to Anchin.

After Anchin was hired in April 2018 through the end of the Pre-FAM Period on June 22, 2020 (excluding the period from April 2018 through November 15, 2018), Anchin provided a variety of services, including the following:

- Developed, updated and maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed not-for-profit tax and accounting considerations;
- Prepared tax returns;
- Addressed various accounting, financial and operating inquiries from Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
- Addressed accounting and financial reporting matters relating to the transition from CAT NMS, LLC to Consolidated Audit Trail, LLC, including supporting the dissolution of CAT NMS, LLC;
- Supported compliance with the CAT NMS Plan;
- Worked with and provided support to the Operating Committee and various CAT working groups;
- Prepared monthly, quarterly and annual financial statements;
- Supported the annual financial statement audits by an independent auditor;
- Reviewed historical costs from inception; and
- Provided accounting and financial information in support of SEC filings.

Accounting Firm: Grant Thornton LLP (''Grant Thornton''). In February 2020, CAT LLC determined to engage an independent accounting firm, Grant Thornton, to complete the audit of CAT LLC's financial statements, in accordance with the requirements of the CAT NMS Plan. CAT LLC interviewed this firm as well as another potential accounting firm to audit CAT LLC's financial statements, considering a variety of factors in its analysis, including the relevant expertise and fees of each of the firms. CAT LLC determined that Grant Thornton was well-qualified for the proposed role given the balance of these considerations. Grant Thornton's fixed fee rate compensation arrangement was reasonable and appropriate, and in line with the market rates charged for these types of accounting services. The fees for these services were paid by CAT LLC to Grant Thornton.

Market Data Provider: Exegy. The professional and administrative costs for the Pre-FAM Period included costs related to the receipt of certain market data for the CAT pursuant to an agreement with the CAT LLC, and then with FCAT. Exegy provided SIP Data required by the CAT NMS Plan.

After performing an analysis of the available market data vendors to confirm that the data provided met the SIP Data requirements of the CAT NMS Plan and comparing the costs of the vendors providing the required SIP Data, CAT LLC determined to purchase market data from Exegy from July 2018 through March 2019. CAT LLC determined that, unlike certain other vendors, Exegy provided market data that included all data elements required by the CAT NMS Plan.[47] In addition, the fees were reasonable and in line with market rates for the market data received. Accordingly, the professional and administrative costs for the Pre-FAM Period include the Exegy costs from November 2018 through March 2019. The cost of the market data was reasonable for the market data received. The fees for the market data were paid directly by CAT LLC to Exegy.

Upon the termination of the contract between CAT LLC and Exegy, FCAT entered into a contract with Exegy to purchase the required market data from Exegy in July 2019. All costs under the contract were treated as a direct pass through cost to CAT LLC. Therefore, the fees for the market data were paid by CAT LLC to FCAT, who, in turn, paid Exegy for the market data.

Security Assessment: RSM US LLP (''RSM''). The operating costs for the Pre-FAM Period include costs related to a third party security assessment of the CAT performed by RSM. The assessment was designed to verify and validate the effective design, implementation, and operation of the controls specified by NIST Special Publication 800–53, Revision 4 and related standards and guidelines. Such a security assessment is in line with industry practice and important given the data included in the CAT. CAT LLC determined to engage RSM to perform the security assessment, after considering a variety of factors in its analysis, including the firm's relevant expertise and fees. The fees were reasonable and in line with market rates for such an assessment. RSM performed the assessment from October 2018 through December 2018. Accordingly, the costs for the Pre-FAM Period include the costs incurred in November and December 2018. The cost for the security assessment were paid directly to RSM by CAT LLC.

(j) Public Relations Costs

The public relations costs of $224,669 represent the fees paid to public relations firms during the Pre-FAM Period for professional communications services to CAT, including media relations consulting, strategy and execution. By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT matters to the benefit of all market participants. Specifically, the public relations firms provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (*e.g.,* congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (*e.g.,* amendments to the CAT NMS Plan). Public relations services were important for various reasons, including monitoring comments made by market participants about CAT and understanding issues related to the CAT discussed on the public record.

The services performed by each of the public relations firms were comparable. The fees for such services were reasonable and in line with market rates. Only one public relations firm was engaged at a time; the three firms were engaged sequentially as the

[47] *See* Section 6.5(a)(ii) of the CAT NMS Plan.

primary public relations contact moved among the three firms during this time period.

Public Relations Firm: Peppercomm, Inc. (''Peppercomm''). The national securities exchanges and FINRA, acting as a consortium, determined to hire the public relations firm Peppercomm in October 2014 and continued to engage this firm through September 2017. The exchanges and FINRA made this engagement decision after considering a variety of factors in its analysis, including the firm's relevant expertise and fees. The fee rates for this public relations firm were negotiated on an arm's length basis and were in line with market rates for these types of services. The public relations costs during the period from October 2014 until the formation of the CAT NMS LLC were paid directly by the exchanges and FINRA to the public relations firm. After the formation of CAT NMS, LLC, the consulting fees were paid by CAT LLC.

Public Relations Firm: Sloane & Company (''Sloane''). CAT LLC determined to hire a new public relations firm, Sloane, in March 2018, based on, among other things, their expertise and the primary contact's history with the project. The fee rates for this public relations firm were in line with market rates for these types of services. The fees during the Pre-FAM Period were paid by CAT LLC to Sloane. CAT LLC continued the engagement with Sloane until February 2020.

Public Relations Firm: Peak Strategies. CAT LLC determined to hire a new public relations firm, Peak Strategies, in March 2020, based on, among other things, their expertise and the primary contact's history with the project. The fee rates for this public relations firm were in line with market rates for these types of services. The fees during the Pre-FAM Period were paid by CAT LLC to Peak Strategies.

(ii) Historical CAT Costs Incurred in Financial Accountability Milestone Period 1

Historical CAT Costs 1 would include costs incurred by CAT and already funded by the Participants during Period 1 of the Financial Accountability Milestones (''FAM Period 1''),[48] which covers the period from June 22, 2020–July 31, 2020. Historical CAT Costs 1 would include costs for FAM Period 1 of $6,377,343. The Participants would remain responsible for one-third of this cost (which they have previously paid) ($2,125,781), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third ($2,125,781) and CEBSs paying one-third ($2,125,781). The following table breaks down Historical CAT Costs 1 for FAM Period 1 into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Historical CAT costs for FAM Period 1 **
Capitalized Developed Technology Costs *	$1,684,870
Technology Costs	3,996,800
Cloud Hosting Services	2,642,122
Operating Fees	1,099,680
CAIS Operating Fees	254,998
Change Request Fees	
Legal	481,687
Consulting	137,209
Insurance	
Professional and administration	69,077
Public relations	7,700
Total Operating Expenses	6,377,343

* The non-cash amortization of these capitalized developed technology costs of $362,121 incurred during FAM Period 1 have been appropriately excluded from the above table.[49]

** See footnote 50.[50]

By the completion of FAM Period 1, CAT LLC was required to implement the reporting by Industry Members (excluding Small Industry Members that are not OATS reporters) of equities transaction data and options transaction data, excluding Customer Account Information, Customer-ID and Customer Identifying Information.[51] CAT LLC completed the requirements of FAM Period 1 by July 31, 2020. The following describes the costs for each of the categories for FAM Period 1.

(a) Technology Costs—Cloud Hosting Services

CAT LLC continued to utilize AWS in FAM Period 1 to provide a broad array of cloud hosting services for the CAT, including data ingestion, data management, and analytic tools. AWS continued to provide storage services, databases, compute services and other services (such as networking, management tools and DevOps tools), as well as various environments for CAT, such as development, performance testing, test, and production environments, during the FAM 1 Period. Accordingly, the $2,642,122 in technology costs for cloud hosting services represent costs incurred for services provided by AWS, as the cloud services provider, during FAM Period 1. The fee arrangement for AWS described above with regard to the Pre-FAM Period continued in place during FAM Period 1 pursuant to the Plan Processor Agreement. Moreover, CAT LLC continued to believe that AWS's maturity in the cloud services space as well as the significant cost and time necessary to move the CAT to a different cloud services provider supported the continued engagement of AWS.

The cost for AWS cloud services for the CAT continued to be a function of the volume of CAT Data. During the

[48] Section 11.6(a)(i)(A) of the CAT NMS Plan.

[49] As discussed above, with respect to certain costs that were ''appropriately excluded,'' such excluded costs relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As such costs have already been otherwise reflected in the filing, their inclusion would double count the capitalized technology costs. In addition, amortization is a non-cash expense.

[50] The costs described in this table of costs for FAM Period 1 were calculated based upon CAT LLC's review of applicable bills and invoices and related financial statements. CAT LLC financial statements are available on the CAT website.

[51] *See* definition of ''Initial Industry Member Core Equity and Options Reporting'' in Section 1.1 of the CAT NMS Plan.

FAM 1 Period, the volume of CAT Data continued to far exceed the original predictions for the CAT as set forth in the CAT NMS Plan. During this period, data submitted to the CAT included options and equities Participant Data, Phase 2a and Phase 2b Industry Member Data (including certain linkages) as well as SIP Data, reference data and other types of Other Data. The following chart provides data regarding the average daily volume, cumulative total events, total compute hours and storage footprint of the CAT during FAM Period 1.[52]

	Date range: 6/22/20–7/31/20
Average Daily Volume in Billions:	
Participant—Equities	6
Participant—Options	103
Industry Member—Equities	7
Industry Member—Options	0.31
SIP—Options & Equities	74
Average Total Daily Volume	185
Cumulative Total Events for the Period	5,190
Total Compute Hours for the Period	2,612,082
Storage Footprint at End of Period (Petabytes)	57.47

(b) Technology Costs—Operating Fees

Pursuant to the Plan Processor Agreement discussed above, FCAT continued in its role as the Plan Processor for the CAT during FAM Period 1. Accordingly, the $1,099,680 in technology costs for operating fees represent costs incurred for the services provided by FCAT under the Plan Processor Agreement during FAM Period 1. The fee arrangement for FCAT described above with regard to the Pre-FAM Period continued in place during FAM Period 1 pursuant to the Plan Processor Agreement. During FAM Period 1, FCAT's activities with respect to the CAT included the following:

- Published iterative drafts of draft Technical Specifications for Phase 2d, after substantial engagement with SEC staff, Industry Members and Participants on the Technical Specifications;
- Published iterative drafts of CAIS Technical Specifications, after substantial engagement with SEC staff, Industry Members and Participants on the Technical Specifications;
- Facilitated Industry Member reporting of Quote Sent Time on Options Market Maker quotes;
- Addressed compliance items, including drafting CAT policies and procedures, and addressing Regulation SCI requirements;
- Provided support to the Operating Committee, the Compliance Subcommittee and CAT working groups;
- Assisted with interpretive efforts and exemptive requests regarding the CAT NMS Plan;
- Oversaw the security of the CAT;
- Monitored the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provided support to subcontractors under the Plan Processor Agreement;
- Provided support in discussions with Participants and the SEC and its staff;
- Operated the FINRA CAT Helpdesk;
- Facilitated communications with the industry, including via FAQs, CAT Alerts, meetings, presentations and webinars;
- Administered the CAT website and all of its content; and
- Provided technical support and assistance with connectivity, data access, and user support, including the use of CAT Data and query tools, for Participants and the SEC staff.

(c) Technology Costs—CAIS Operating Fees

Pursuant to the Plan Processor Agreement discussed above, Kingland continued in its role as a subcontractor for the development and implementation of CAIS during FAM Period 1. Accordingly, the $254,998 in technology costs for CAIS operating fees represent costs incurred for services provided by Kingland during FAM Period 1. The fee arrangement for Kingland described above with regard to the Pre-FAM Period continued in place during FAM Period 1 pursuant to the Plan Processor Agreement. During FAM Period 1, Kingland continued the development of the CAIS Technical Specifications and building of CAIS. In addition, Kingland continued to work on the CAIS Technical Specifications and build related to CCID Alternative, as well as the acceleration of the reporting of LTIDs.

(d) Technology Costs—Change Request Fees

CAT LLC did not incur costs related to change requests during FAM Period 1.

(e) Technology Costs—Capitalized Developed Technology Costs

Capitalized developed technology costs for FAM Period 1 of $1,684,870 include capitalizable application development costs incurred in the development of the CAT by FCAT. Such costs include: (1) costs related to certain modifications, upgrades, or other changes to the CAT that were not contemplated by the agreement between CAT LLC and the Plan Processor, including separate production and industry test entitlements, and reprocessing of exchange event timestamps; (2) implementation fees; and (3) license fees.

(f) Legal Costs

The legal costs of $481,687 represent the fees paid for legal services provided by two law firms, WilmerHale and Pillsbury during FAM Period 1.

Law Firm: WilmerHale. CAT LLC continued to employ WilmerHale during FAM Period 1 based on, among other things, their expertise and long history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 1 were paid by CAT LLC to WilmerHale. During FAM Period 1, WilmerHale provided legal assistance to the CAT including with regard to the following:

- Assisted with the development of the CAT funding model and drafted related amendments and fee filings;

[52] Note that the volume data described in this table does not include CAIS data.

• Drafted exemptive requests from CAT NMS Plan requirements regarding, for example, verbal activity, options market maker quote sent time, TRF linkages, and allocations;
• Provided interpretations related to CAT NMS Plan requirements, including the Financial Accountability Milestone amendment;
• Assisted with compliance with Regulation SCI;
• Provided support for the Operating Committee, Compliance Subcommittee, working groups and Leadership Team, including with regard to meetings with the SEC staff;
• Assisted with the drafting of the Implementation Plan required pursuant to Section 6.6(c)(i) of the CAT NMS Plan;
• Assisted with communications and presentations for the industry regarding CAIS;
• Drafted SRO rule filings related to the CAT Compliance Rule;
• Provided support for Compliance Subcommittee, including with regard to response to OCIE examinations and the annual assessment;
• Provided guidance regarding CAT technical specifications;
• Assisted with third party vendor agreements; and
• Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues.

Law Firm: Pillsbury. CAT LLC continued to employ Pillsbury during FAM Period 1 based on, among other things, their expertise and history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 1 were paid by CAT LLC to Pillsbury. During FAM Period 1, Pillsbury provided legal assistance to the CAT regarding the CAT Reporter Agreement. During that period, Pillsbury advised CAT LLC regarding applicable legal matters and drafted a proposed amendment to the CAT NMS Plan regarding liability matters. Liability issues related to the CAT are important matters that needed to be resolved and clarified. CAT LLC's efforts to seek such resolution and clarity work to the benefit of Participants, Industry Members and other market participants.

(g) Consulting Costs

The consulting costs of $137,209 represent the fees paid to Deloitte as project manager during FAM Period 1. CAT LLC continued to employ Deloitte during FAM Period 1 based on, among other things, their expertise and cumulative experience with the CAT. The fee rates for Deloitte during FAM Period 1 were negotiated and in line with market rates for this type of specialized consulting work. The consulting fees during FAM Period 1 were paid by CAT LLC to the consulting firm. CAT LLC reviewed the consulting fees each month and approved the invoices. During FAM Period 1, Deloitte's CAT-related activities included the following:
• Implemented program operations for the CAT project;
• Provided support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings and communications, and interfacing with law firms and the SEC;
• Assisted with cost and funding matters for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;
• Provided support for updating the SEC on the progress of the development of the CAT;
• Assisted with the transition from the Initial Plan Processor to the successor Plan Processor; and
• Provided support for third party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

(h) Insurance

Although insurance was in effect during FAM Period 1, CAT LLC did not incur costs related to insurance during FAM Period 1.

(i) Professional and Administration Costs

Financial Advisory Firm: Anchin. The professional and administration costs of $69,077 represent the fees paid to Anchin during FAM Period 1. CAT LLC continued to employ Anchin during FAM Period 1 based on, among other things, their expertise and history with the project. The hourly fee rates for this firm were in line with market rates for these type of financial advisory services. The fees for these services during FAM Period 1 were paid by CAT LLC to Anchin. During FAM Period 1, Anchin provided a variety of services, including the following:
• Maintained internal controls;
• Provided cash management and treasury functions;
• Facilitated bill payments;
• Provided monthly bookkeeping;
• Reviewed vendor invoices and documentation in support of cash disbursements;
• Provided accounting research and consultations on various accounting, financial reporting and tax matters;
• Addressed various accounting, financial reporting and operating inquiries from Participants;
• Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
• Supported compliance with the CAT NMS Plan;
• Worked with and provided support to the Operating Committee and various CAT working groups; and
• Prepared monthly and quarterly financial statements.

(j) Public Relations Costs

The public relations costs of $7,700 represent the fees paid to Peak Strategies during FAM Period 1. CAT LLC continued to employ Peak Strategies during FAM Period 1 based on, among other things, their expertise and history with the project. The fee rates for this firm were reasonable and in line with market rates for these types of services. The fees for these services during FAM Period 1 were paid by CAT LLC to Peak Strategies. During FAM Period 1, Peak Strategies continued to provide professional communications services to CAT LLC, including media relations consulting, strategy and execution. Specifically, the public relations firm provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (*e.g.,* congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (*e.g.,* amendments to the CAT NMS Plan). As discussed above, such public relations services were important for various reasons, including monitoring comments made by market participants about the CAT and understanding issues related to the CAT discussed on the public record. By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT matters to the benefit of all market participants.

(iii) Historical CAT Costs Incurred in Financial Accountability Milestone Period 2

Historical CAT Costs 1 would include costs incurred by CAT LLC and already funded by Participants during Period 2 of the Financial Accountability Milestones (''FAM Period 2''),[53] which

[53] Section 11.6(a)(i)(B) of the CAT NMS Plan.

covers the period from August 1, 2020–December 31, 2020. Historical CAT Costs 1 would include costs for FAM Period 2 of $42,976,478. The Participants would remain responsible for one-third of this cost (which they have previously paid) ($14,325,493), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third ($14,325,493) and CEBSs paying one-third ($14,325,493). The following table breaks down Historical CAT Costs 1 for FAM Period 2 into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Historical CAT costs for FAM Period 2**
Capitalized Developed Technology Costs*	$6,761,094
Technology Costs	31,460,033
Cloud Hosting Services	20,709,212
Operating Fees	9,108,700
CAIS Operating Fees	1,590,298
Change Request Fees	51,823
Legal	2,766,644
Consulting	532,146
Insurance	976,098
Professional and administration	438,523
Public relations	41,940
Total Operating Expenses	42,976,478

* The non-cash amortization of these capitalized developed technology costs of $1,892,505 incurred during FAM Period 2 have been appropriately excluded from the above table.[54]
** See footnote 55.[55]

By the completion of FAM Period 2, CAT LLC was required to implement the following with regard to the CAT:

(a) Industry Member reporting (excluding reporting by Small Industry Members that are not OATS reporters) for equities transactions, excluding Customer Account Information, CustomerID, and Customer Identifying Information, is developed, tested, and implemented at a 5% Error Rate or less and with sufficient intra-firm linkage, inter-firm linkage, national securities exchange linkage, and trade reporting facilities linkage to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, excluding linkage of representative orders, from order origination through order execution or order cancellation; and (b) the query tool functionality required by Section 6.10(c)(i)(A) and Appendix D, Sections 8.1.1–8.1.3 and Section 8.2.1 incorporates the Industry Member equities transaction data described in condition (a) and is available to the Participants and to the Commission.[56]

CAT LLC completed the requirements of FAM Period 2 by December 31, 2020. The following describes the costs for each of the categories for FAM Period 2.

(a) Technology Costs—Cloud Hosting Services

CAT LLC continued to utilize AWS in FAM Period 2 to provide a broad array of cloud hosting services for the CAT, including data ingestion, data management, and analytic tools. AWS continued to provide storage services, databases, compute services and other services (such as networking, management tools and DevOps tools), as well as various environments for CAT, such as development, performance testing, test, and production environments, during the FAM 2 Period. Accordingly, the $20,709,212 in technology costs for cloud hosting services represent costs incurred for services provided by AWS, as the cloud services provider, during FAM Period 2. The fee arrangement for AWS described above with regard to the Pre-FAM Period and FAM Period 1 continued in place during FAM Period 2 pursuant to the Plan Processor Agreement.

The cost for AWS cloud services for the CAT continued to be a function of the volume of CAT Data. During the FAM 2 Period, the volume of CAT Data continued to far exceed the original predictions for the CAT as set forth in the CAT NMS Plan. During this period, data submitted to the CAT included options and equities Participant Data, Phase 2a and Phase 2b Industry Member Data (including certain linkages) as well as SIP Data, and Other Data, including reference data. In addition, Industry Members began reporting LTID account information. The following chart provides data regarding the average daily volume, cumulative total events, total compute hours and storage footprint of the CAT during FAM Period 2.[57]

	Date range: 8/1/20–12/31/20
Average Daily Volume in Billions:	
Participant—Equities	6
Participant—Options	116
Industry Member—Equities	11
Industry Member—Options	0.98
SIP—Options & Equities	80

[54] As discussed above, with respect to certain costs that were ''appropriately excluded,'' such excluded costs relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As such costs have already been otherwise reflected in the filing, their inclusion would double count the capitalized technology costs. In addition, amortization is a non-cash expense.

[55] The costs described in this table of costs for FAM Period 2 were calculated based upon CAT LLC's review of applicable bills and invoices and related financial statements. CAT LLC financial statements are available on the CAT website.

[56] *See* definition of ''Full Implementation of Core Equity Reporting Requirements'' in Section 1.1 of the CAT NMS Plan.

[57] Note that the volume data described in this table does not include CAIS data.

	Date range: 8/1/20–12/31/20
Average Total Daily Volume	282
Cumulative Total Events for the Period	2,170
Total Compute Hours for the Period	15,660,392
Storage Footprint at End of Period (Petabytes)	114.59

(b) Technology Costs—Operating Fees

Pursuant to the Plan Processor Agreement discussed above, FCAT continued in its role as the Plan Processor for the CAT during FAM Period 2. Accordingly, the $9,108,700 in technology costs for operating fees represent costs incurred for the services provided by FCAT under the Plan Processor Agreement during FAM Period 2. The fee arrangement for FCAT described above with regard to the Pre-FAM Period and FAM Period 1 continued in place during FAM Period 2 pursuant to the Plan Processor Agreement. During FAM Period 2, FCAT's activities with respect to the CAT included publishing the Technical Specifications for Phase 2d and overseeing the reporting of firm to firm and intrafirm linkages by Industry Members. In addition, FCAT also continued to engage in the following activities during FAM Period 2:

- Addressed compliance items, including drafting CAT policies and procedures, and addressing Regulation SCI requirements;
- Provided support to the Operating Committee, Compliance Subcommittee and CAT working groups;
- Assisted with interpretive efforts and exemptive requests regarding the CAT NMS Plan;
- Oversaw the development and implementation of the security of the CAT;
- Monitored the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provided support to subcontractors under the Plan Processor Agreement;
- Provided support in discussions with the Participants and the SEC and its staff;
- Operated the FINRA CAT Helpdesk;
- Facilitated communications with the industry, including via FAQs, CAT Alerts, meetings, presentations and webinars;
- Administered the CAT website and all of its content; and
- Provided technical support and assistance with connectivity, data access, and user support, including the use of CAT Data and query tools, for Participants and the SEC staff.

(c) Technology Costs—CAIS Operating Fees

Pursuant to the Plan Processor Agreement discussed above, Kingland continued in its role as a subcontractor for the development and implementation of CAIS during FAM Period 2. Accordingly, the $1,590,298 in technology costs for CAIS operating fees represent costs incurred for services provided by Kingland during FAM Period 2. The fee arrangement for Kingland described above with regard to the Pre-FAM Period and FAM Period 1 continued in place during FAM Period 2 pursuant to the Plan Processor Agreement. During FAM Period 2, Kingland continued the development of the CAIS Technical Specifications and building of CAIS. In addition, Kingland continued to work on the CAIS Technical Specifications and build related to the CCID Alternative, as well as the acceleration of the reporting of LTIDs.

(d) Technology Costs—Change Request Fees

During FAM Period 2, CAT LLC engaged FCAT to pursue certain change requests in accordance with the Plan Processor Agreement. The change request costs were paid by CAT LLC to FCAT. Specifically, during FAM Period 2, CAT incurred costs of $51,823 related to a change request regarding the addition of functionality for exchange Participants to report rejected messages to the CAT.

(e) Technology Costs—Capitalized Developed Technology Costs

Capitalized developed technology costs for FAM Period 2 of $6,761,094 include capitalizable application development costs incurred in the development of the CAT by FCAT. Such costs include (1) development costs incurred during the application development stage to meet various agreed-upon milestones regarding the CAT, as defined in the agreement between CAT LLC and the Plan Processor; (2) costs related to certain modifications, upgrades, or other changes to the CAT that were not contemplated by the agreement between CAT LLC and the Plan Processor, including costs related to separate production and industry test entitlements, market maker reference data, and back-processing of exchange exception logic; (3) implementation fees; and (4) license fees.

(f) Legal Costs

The legal costs of $2,766,644 represent the fees paid for legal services provided by two law firms, WilmerHale and Pillsbury during FAM Period 2.

Law Firm: WilmerHale. CAT LLC continued to employ WilmerHale during FAM Period 2 based on, among other things, their expertise and long history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 2 were paid by CAT LLC to WilmerHale. During FAM Period 1, the legal assistance provided by WilmerHale included providing legal advice regarding the following:

- Assisted with the development of the CAT funding model and drafting related amendments and rule filings;
- Drafted exemptive requests from CAT NMS Plan requirements regarding, for example, allocations, exchange activity, OTQT, initial data validation, error corrections and recordkeeping;
- Provided interpretations related to CAT NMS Plan requirements, including with regard to the Financial Accountability Milestone amendment, FAQs and technical specifications;
- Provided support for the Operating Committee, Compliance Subcommittees, working groups and Leadership Team, including with regard to meetings with the SEC staff;
- Assisted with the Implementation Plan and Quarterly Progress Reports required pursuant to Section 6.6 of the CAT NMS Plan;
- Drafted SRO rule filings related to the CAT Compliance Rule;
- Provided support for the Compliance Subcommittee, including with regard to responses to OCIE examinations and the annual assessment;
- Provided guidance regarding the SEC's proposed security amendments to the CAT NMS Plan;
- Provided guidance regarding SRO rule filings for the retirement of systems;
- Provided legal support for Operating Committee meetings, including drafting resolutions and other materials and voting advice;

- Assisted with third party vendor agreements (*e.g.,* with regard to Anchin, Grant Thornton and insurance policies);
- Assisted with change requests; and
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues.

Law Firm: Pillsbury. CAT LLC continued to employ Pillsbury during FAM Period 2 based on, among other things, their expertise and history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 2 were paid by CAT LLC to Pillsbury. During FAM Period 2, Pillsbury provided legal assistance to the CAT regarding the CAT Reporter Agreement. During that period, Pillsbury advised CAT LLC regarding applicable legal matters and drafted and filed a proposed amendment to the CAT NMS plan regarding liability matters. As discussed above, liability issues related to the CAT are important matters that needed to be resolved and clarified. CAT LLC's efforts to seek such resolution and clarity work to the benefit of Participants, Industry Members and other market participants.

(g) Consulting Costs

The consulting costs of $532,146 represent the fees paid to Deloitte as project manager during FAM Period 2. CAT LLC continued to employ Deloitte during FAM Period 2 based on, among other things, their expertise and long history with the project. The fee rates for Deloitte during FAM Period 2 were negotiated and in line with market rates for this type of specialized consulting work. The consulting fees during FAM Period 2 were paid to Deloitte by CAT LLC. CAT LLC reviewed the consulting fees each month and approved the invoices. During FAM Period 2, Deloitte's CAT-related activities included the following:

- Implemented program operations for the CAT project;
- Provided support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings and communications, and interfacing with law firms and the SEC;
- Assisted with cost and funding matters for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;
- Provided support for updating the SEC on the progress of the development of the CAT; and
- Provided support for third party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

(h) Insurance

The insurance costs of $976,098 represent the fees paid for insurance during FAM Period 2. CAT LLC continued to maintain cyber security liability insurance, directors' and officers' liability insurance, and errors and omissions liability insurance offered by USI. After engaging in a process for renewing the coverage, CAT LLC determined to purchase these insurance policies from USI. The annual premiums for these policies were competitive for the coverage provided. The annual premiums were paid by CAT LLC to USI.

(i) Professional and Administration Costs

The professional and administration costs of $438,523 represent the fees paid to Anchin and Grant Thornton for financial services provided during FAM Period 2.

Financial Advisory Firm: Anchin. CAT LLC continued to engage Anchin during FAM Period 2 based on, among other things, their expertise and history with the project. The hourly fee rates for this firm were in line with market rates for these types of financial advisory services. The fees for these services during FAM Period 2 were paid by CAT LLC to Anchin. During FAM Period 2, Anchin provided a variety of services, including the following:

- Updated and maintained internal controls;
- Provided cash management and treasury functions;
- Faciliated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed not-for-profit tax and accounting considerations;
- Prepared tax returns;
- Addressed various accounting, financial reporting and operating inquiries from the Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
- Supported compliance with the CAT NMS Plan;
- Worked with and provided support to the Operating Committee and various CAT working groups;
- Prepared monthly, quarterly and annual financial statements;
- Supported the annual financial statement audit by an independent auditor; and
- Reviewed historical costs from inception.

Accounting Firm: Grant Thornton. CAT LLC continued to employ the accounting firm Grant Thornton during FAM Period 2 based on, among other things, its expertise and cumulative knowledge of CAT LLC. CAT LLC continued to believe that Grant Thornton was well qualified for its role and its fee rates were in line with with market rates for these accounting services. The fees for these services during FAM Period 2 were paid by CAT LLC to Grant Thornton. During FAM Period 2, Grant Thornton performed a financial statement audit for CAT LLC as an independent accounting firm.

(j) Public Relations Costs

The public relations costs of $41,940 represent the fees paid to Peak Strategies during FAM Period 2. CAT LLC continued to employ Peak Strategies during FAM Period 2 based on, among other things, their expertise and history with the project. The fee rates for this firm were in line with market rates for these types of services. The fees for these services during FAM Period 2 were paid by CAT LLC to Peak Strategies. During FAM Period 2, Peak Strategies continued to provide professional communications services to CAT, including media relations consulting, strategy and execution. Specifically, the public relations firm provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (*e.g.,* congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (*e.g.,* amendments to the CAT NMS Plan). As discussed above, such public relations services were important for various reasons, including monitoring comments made by market participants about the CAT and understanding issues related to the CAT discussed on the public record. By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT matters to the benefit of all market participants.

(iv) Historical CAT Costs Incurred in Financial Accountability Milestone Period 3

Historical CAT Costs 1 would include costs incurred by CAT and already funded by the Participants during Period 3 of the Financial Accountability Milestones (''FAM Period 3''),[58] which covers the period from January 1, 2021–December 31, 2021. Historical CAT Costs 1 would include costs for FAM Period 3 of $144,415,268. The Participants would remain responsible for one-third of this cost (which they have previously paid) ($48,138,423), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third ($48,138,423) and CEBSs paying one-third ($48,138,423). The following table breaks down Historical CAT Costs 1 for FAM Period 3 into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Historical CAT costs for FAM Period 3**
Capitalized Developed Technology Costs*	$10,763,372
Technology Costs	123,639,402
Cloud Hosting Services	94,574,759
Operating Fees	23,106,091
CAIS Operating Fees	5,562,383
Change Request Fees	396,169
Legal	6,333,248
Consulting	1,408,209
Insurance	1,582,714
Professional and administration	595,923
Public relations	92,400
Total Operating Expenses	144,415,268

* The non-cash amortization of these capitalized developed technology costs of $5,108,044 incurred during FAM Period 3 have been appropriately excluded from the above table.[59]
** See footnote 60.[60]

By the completion of FAM Period 3, CAT LLC was required to implement the following requirements with regard the CAT:

(a) reporting to the Order Audit Trail System (''OATS'') is no longer required for new orders; (b) Industry Member reporting for equities transactions and simple electronic options transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, with sufficient intra-firm linkage, inter-firm linkage, national securities exchange linkage, trade reporting facilities linkage, and representative order linkages (including any equities allocation information provided in an Allocation Report) to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, from order origination through order execution or order cancellation, is developed, tested, and implemented at a 5% Error Rate or less; (c) Industry Member reporting for manual options transactions and complex options transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, with all required linkages to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, from order origination through order execution or order cancellation, including any options allocation information provided in an Allocation Report, is developed, tested, and fully implemented; (d) the query tool functionality required by Section 6.10(c)(i)(A) and Appendix D, Sections 8.1.1–8.1.3, Section 8.2.1, and Section 8.5 incorporates the data described in conditions (b)–(c) and is available to the Participants and to the Commission; and (e) the requirements of Section 6.10(a) are met.[61]

CAT LLC completed the requirements of FAM Period 3 by December 31, 2021. The following describes the costs for each of the categories for FAM Period 3.

(a) Technology Costs—Cloud Hosting Services

CAT LLC continued to utilize AWS in FAM Period 3 to provide a broad array of cloud hosting services for the CAT, including data ingestion, data management, and analytic tools. AWS continued to provide storage services, databases, compute services and other services (such as networking, management tools and DevOps tools), as well as various environments for CAT, such as development, performance testing, test, and production environments, during the FAM 3 Period. Accordingly, the $94,574,759 in technology costs for cloud hosting services represents costs incurred for services provided by AWS, as the cloud services provider, during FAM Period 3. The fee arrangement for AWS described above for the earlier periods continued in place during FAM Period 3 pursuant to the Plan Processor Agreement.

The cost for AWS cloud services for the CAT continued to be a function of the volume of CAT Data. During FAM Period 3, the volume of CAT Data continued to far exceed the original predictions for the CAT as set forth in the CAT NMS Plan. During this period, data submitted to the CAT included options and equities Participant Data, Phase 2a, Phase 2b, Phase 2c and Phase 2d Industry Member Data (including certain linkages), SIP Data, Other Data, including reference data, and LTID account information. The following chart provides data regarding the average daily volume, cumulative total events, total compute hours and storage footprint of the CAT during FAM Period 3.[62]

[58] Section 11.6(a)(i)(C) of the CAT NMS Plan.

[59] As discussed above, with respect to certain costs that were ''appropriately excluded,'' such excluded costs relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As such costs have already been otherwise reflected in the filing, their inclusion would double count the capitalized technology costs. In addition, amortization is a non-cash expense.

[60] The costs described in this table of costs for FAM Period 3 were calculated based upon CAT LLC's review of applicable bills and invoices and related financial statements. CAT LLC financial statements are available on the CAT website.

[61] *See* definition of ''Full Availability and Regulatory Utilization of Transactional Database Functionality'' in Section 1.1 of the CAT NMS Plan.

[62] Note that the volume data described in this table does not include CAIS data.

	Date range: 1/1/21 to 4/25/21	Date range: 4/26/21/ to 12/31/21 *
Average Daily Volume in Billions:		
Participant—Equities	9	9
Participant—Options	135	136
Industry Member—Equities	20	19
Industry Member—Options	2	2
SIP—Options & Equities	129	137
Average Total Daily Volume	297	304
Cumulative Total Events for the Period	7,480	5,310
Total Compute Hours for the Period	15,860,304	33,487,318
Storage Footprint at End of Period (Petabytes)	180.22	284.62

* Start of Participant Equities in CAT format and SIP Equities on 4/26/21.

(b) Technology Costs—Operating Fees

Pursuant to the Plan Processor Agreement discussed above, FCAT continued in its role as the Plan Processor for the CAT during FAM Period 3. Accordingly, the $23,106,091 in technology costs for operating fees represent costs incurred for the services provided by FCAT under the Plan Processor Agreement during FAM Period 3. The fee arrangement for FCAT described above with regard to the prior Periods continued in place during FAM Period 3 pursuant to the Plan Processor Agreement. During FAM Period 3, FCAT's activities with respect to the CAT included the following:

- Facilitated Phase 2c and Phase 2d testing for Industry Members;
- Oversaw creation of linkages of the lifecycle of order events based on the received data through Phase 2d;
- Addressed compliance items, including drafting CAT policies and procedures, and addressing Regulation SCI requirements;
- Provided support to the Operating Committee, the Compliance Subcommittee and CAT working groups;
- Assisted with interpretive efforts and exemptive requests regarding the CAT NMS Plan;
- Oversaw the security of the CAT;
- Monitored the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provided support to subcontractors under the Plan Processor Agreement;
- Provided support in discussions with the Participants and the SEC and its staff;
- Operated the FINRA CAT Helpdesk;
- Facilitated communications with the industry, including via FAQs, CAT Alerts, meetings, presentations and webinars;
- Administered the CAT website and all of its content; and
- Provided technical support and assistance with connectivity, data access, and user support, including the use of CAT Data and query tools, for Participants and the SEC staff.

(c) Technology Costs—CAIS Operating Fees

Pursuant to the Plan Processor Agreement with FCAT discussed above, Kingland continued in its role as a subcontractor for the development and implementation of CAIS during FAM Period 3. Accordingly, the $5,562,383 in technology costs for CAIS operating fees represents costs incurred for services provided by Kingland during FAM Period 3. The fee arrangement for Kingland described above with regard to the prior Periods continued in place during FAM Period 3 pursuant to the Plan Processor Agreement. During FAM Period 3, Kingland continued the development of the CAIS Technical Specifications and building of CAIS. In addition, Kingland continued to work on the CAIS Technical Specifications and build related to the CCID Alternative, as well as the acceleration of the reporting of LTIDs. The full CAIS Technical Specifications were published during FAM Period 3.

(d) Technology Costs—Change Request Fees

During FAM Period 3, CAT LLC engaged FCAT to pursue certain change requests in accordance with the Plan Processor Agreement. The change request costs were paid by CAT LLC to FCAT. Specifically, during FAM Period 3, CAT incurred costs of $396,169 related to change requests, including the following: (1) the addition of functionality for exchange Participants to report rejected messages to the CAT; (2) the migration of MIRS query engine to AWS to reduce operational costs and increase resiliency; and (3) updating the Participant Technical Specifications to allow for two-sided Participant option quote reporting.

(e) Technology Costs—Capitalized Developed Technology Costs

Capitalized developed technology costs for FAM Period 3 of $10,763,372 include capitalizable application development costs incurred in the development of the CAT by FCAT. Such costs include (1) development costs incurred during the application development stage to meet various agreed-upon milestones regarding the CAT, as defined in the agreement between CAT LLC and the Plan Processor, including the transition from equity data received by FINRA pursuant to various regulatory services agreements between FINRA and Participant exchanges to the equity CAT Data, and the completion of the Industry Member Phase 2d options manual and complex orders go-live requirements; (2) costs related to certain modifications, upgrades, or other changes to the CAT that were not contemplated by the agreement between CAT LLC and the Plan Processor, including costs related to off-exchange volume concentration, Participant 24-hour trading and an external metastore; (3) implementation fees; and (4) license fees.

(f) Legal Costs

The legal costs of $6,333,248 represent the fees paid for legal services provided by three law firms, WilmerHale, Pillsbury and Covington & Burling LLP (''Covington'') during FAM Period 3.

Law Firm: WilmerHale. CAT LLC continued to employ WilmerHale during FAM Period 3 based on, among other things, their expertise and long history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 3 were paid by CAT LLC to WilmerHale. During FAM Period 3, the legal assistance provided by WilmerHale included providing legal advice regarding the following:

- Assisted with the development of the CAT funding model and drafting related amendments and rule filings;
- Drafted exemptive requests from CAT NMS Plan requirements, including, for example, verbal activity regarding Phase 2c cutover, error reports, error

corrections, Phase 2d Reporting, unique Order-ID on internal route events, reporting addresses, recordkeeping, and unique CCID for foreign customers;

- Provided interpretations related to CAT NMS Plan requirements, including with regard to the Financial Accountability Milestone amendment, FAQs, CAIS requirements, ADF, and technical specifications;
- Provided support for the Operating Committee, Compliance Subcommittee, working groups and Leadership Team, including with regard to meetings with the SEC staff;
- Assisted with the Implementation Plan and Quarterly Progress Reports required pursuant to Section 6.6(c) of the CAT NMS Plan;
- Drafted SRO rule filings related to the CAT Compliance Rule;
- Provided support for Compliance Subcommittee, including with regard to response to OCIE examinations and the annual assessment;
- Provided guidance regarding SEC's proposed security amendments to CAT NMS Plan;
- Provided guidance regarding SRO rule filings for the retirement of systems;
- Provided legal support for Operating Committee meetings, including drafting resolutions and other materials and voting advice;
- Provided assistance with change requests;
- Provided guidance and regulatory support for litigation regarding the response to SEC's exemptive orders;
- Assisted with communications with the industry, includng CAT Alerts and presentations;
- Provided guidance regarding the confidentiality of CAT Data, including third-party information requests;
- Assisted with cost management analysis and proposals; and
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues.

Law Firm: Pillsbury. CAT LLC continued to employ Pillsbury during FAM Period 3 based on, among other things, their expertise and history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 3 were paid by CAT LLC to Pillsbury. During FAM Period 3, Pillsbury provided legal assistance to the CAT regarding the CAT Reporter Agreement. During this period, Pillsbury advised CAT LLC regarding applicable legal matters, reviewed and responded to comment letters regarding the proposed Plan amendment, participated in meetings with senior SEC staff, responded to comments submitted following the SEC's April 6, 2021 order instituting proceedings,[63] and assessed legal matters regarding the SEC's October 29, 2021 order denying the proposed Plan amendment.[64]

Law Firm: Covington. CAT LLC hired Covington for litigation with the SEC regarding certain exemptive orders related to the CAT, including orders issued in December 2020.[65] CAT LLC interviewed this law firm as well as other potential law firms, considering a variety of factors in its analysis for choosing legal assistance, including the relevant expertise and fees of the potential lawyers. CAT LLC approved the engagement of Covington in January 2021. The fee rates for this law firm, which were calculated based on hourly rates, were in line with market rates for specialized services. The legal fees for FAM Period 3 for this firm were paid by CAT LLC to Covington.

After Covington was hired in 2021 through the end of 2021, the firm provided legal assistance regarding the litigation with the SEC regarding the 2020 Orders. These services included researching, drafting, and filing motions to stay the 2020 orders and related materials in proceedings before the SEC, as well as researching, drafting, and filing petitions for judicial review of the 2020 Orders in proceedings before the U.S. Court of Appeals for the D.C. Circuit. Covington oversaw ongoing litigation proceedings on these matters, and also supported WilmerHale with respect to settlement negotiations with the SEC staff regarding the 2020 Orders.

In addition to these services, CAT LLC engaged Covington in November 2021 to provide assistance with respect to the SEC's disapproval of CAT NMS Plan amendments concerning a proposed limitation on liability in the event of a data breach or similar event. Covington provided advice concerning CAT's response to the SEC's disapproval order. This work accounted for a minority of Covington's fees in 2021.[66]

(g) Consulting Costs

The consulting costs of $1,408,209 represent the fees paid to Deloitte as project manager during FAM Period 3. CAT LLC continued to employ Deloitte during FAM Period 3 based on, among other things, their expertise and long history with the project. The fee rates for Deloitte during FAM Period 3 were negotiated and in line with market rates for this type of specialized consulting work. The consulting fees during FAM Period 3 were paid to Deloitte by CAT LLC. CAT LLC reviewed the consulting fees each month and approved the invoices. During FAM Period 3, Deloitte's CAT-related activities included the following:

- Implemented program operations for the CAT project;
- Provided support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings and communications, and interfacing with law firms and the SEC;
- Assisted with cost and funding matters for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;
- Provided support for updating the SEC on the progress of the development of the CAT; and
- Provided support for third party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

(h) Insurance

The insurance costs of $1,582,714 represent the fees paid for insurance FAM Period 3. CAT LLC continued to maintain cyber security liability insurance, directors' and officers' liability insurance, and errors and omissions liability insurance offered by USI. After engaging in a process for renewing the coverage, CAT LLC determined to purchase these insurance policies from USI. The annual premiums for these policies were competitive for the coverage provided. The annual premiums were paid by CAT LLC to USI.

(i) Professional and Administration Costs

The professional and administration costs of $595,923 represent the fees paid to Anchin and Grant Thornton for financial services during FAM Period 3.

Financial Advisory Firm: Anchin. CAT LLC continued to employ Anchin during FAM Period 3 based on, among other things, their expertise and history with the project. The hourly fee rates for

[63] Securities Exchange Act Rel. No. 91487 (Apr. 6, 2021), 86 FR 19054 (Apr. 12, 2021).

[64] Securities Exchange Act Rel. No. 93484 (Oct. 29, 2021), 86 FR 60933 (Nov. 4, 2021).

[65] *See* Securities Exchange Act Rel. No. 90688 (Dec. 16, 2020), 85 FR 83634 (Dec. 22, 2020); and Securities Exchange Act Rel. No. 90689 (Dec. 16, 2020), 85 FR 83667 (Dec. 22, 2020) (collectively, the ''2020 Orders'').

[66] As discussed above with regard to Pillsbury's work on liability matters, liability issues related to the CAT are important matters that needed to be resolved and clarified. CAT LLC's efforts to seek such resolution and clarity work to the benefit of Participants, Industry Members and other market participants. Moreover, such activity is a necessary part of the operation of the CAT.

this firm were in line with market rates for these financial advisory services. The fees for these services during FAM Period 3 were paid by CAT LLC to Anchin. During FAM Period 3, Anchin provided a variety of services, including the following:

- Updated and maintained internal controls;
- Provided cash management and treasury functions;
- Faciliated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed not-for-profit tax and accounting considerations;
- Prepared tax returns;
- Addressed various accounting, financial reporting and operating inquiries from Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
- Supported compliance with the CAT NMS Plan;
- Worked with and provided support to the Operating Committee and various CAT working groups;
- Prepared monthly, quarterly and annual financial statements;
- Supported the annual financial statement audits by an independent auditor;
- Reviewed historical costs from inception; and
- Provided accounting and financial information in support of SEC filings.

Accounting Firm: Grant Thornton. CAT LLC continued to employ the accounting firm Grant Thornton during FAM Period 3 based on, among other things, their expertise and cumulative knowledge of CAT LLC. CAT LLC determined that Grant Thornton was well qualified for its role and that its fixed fee rates were in line with market rates for these accountant services. The fees for these services during FAM Period 3 were paid by CAT LLC to Grant Thornton. During FAM Period 3, Grant Thornton provided audited financial statements for CAT LLC.

(j) Public Relations Costs

The public relations costs of $92,400 represent the fees paid to Peak Strategies during FAM Period 3. CAT LLC continued to employ Peak Strategies during FAM Period 3 based on, among other things, their expertise and history with the project. The fee rates for this firm were in line with market rates for these types of services. The fees for these services during FAM Period 3 were paid by CAT LLC to Peak Strategies. During FAM Period 3, Peak Strategies continued to provide professional communications services to CAT, including media relations consulting, strategy and execution. Specifically, the public relations firm provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (*e.g.,* congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (*e.g.,* amendments to the CAT NMS Plan). As discussed above, such public relations services were important for various reasons, including monitoring comments made by market participants about the CAT and understanding issues related to the CAT discussed on the public record. By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT matters to the benefit of all market participants.

(v) Excluded Costs

Historical CAT Costs 1 would not include two categories of CAT costs (''Excluded Costs''): (1) $48,874,937, which are all CAT costs incurred from November 15, 2017 through November 15, 2018; and (2) $14,749,362 of costs related to the termination of the relationship with the Initial Plan Processor. The Participants would remain responsible for 100% of these costs, which total $63,624,299. CAT LLC determined that it was reasonable to exclude these Excluded Costs from Historical CAT Costs 1 because the excluded costs relate to the delay in the start of reporting to the CAT and the conclusion of the relationship with the Initial Plan Processor.[67]

First, Historical CAT Costs 1 would not include $14,749,362 of costs related to the conclusion of the relationship with the Initial Plan Processor. Such costs include costs related to the American Arbitration Association, the legal assistance of Pillsbury with regard to the arbitration with Thesys CAT, and the settlement costs related to the arbitration with Thesys CAT. The Participants would remain responsible for 100% of these $14,749,362 in costs.

Second, the Historical CAT Costs would exclude all CAT costs incurred from November 15, 2017 through November 15, 2018. CAT LLC determined to exclude all costs during this one-year period of $48,874,937 from fees charged to Industry Members due to the delay in the start of reporting to the CAT. The Participants would remain responsible for 100% of these $48,874,937 in costs. The following table breaks down these costs into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Excluded costs for November 15, 2017–November 15, 2018 *
Capitalized Developed Technology Costs	$37,852,083
Technology Costs:	
Cloud Hosting Services	
Operating Fees	
CAIS Operating Fees	
Change Request Fees	
Legal	6,143,278
Consulting	4,452,106
Insurance	
Professional and administration	340,145
Public relations	87,325

[67] In approving the CAT Funding Model, the Commission states that ''the proposed exclusion of the 'Excluded Costs' from Past CAT Costs is reasonable in the Commission's view because it would not require all costs incurred by the Participants to be recovered from Industry Members through the Historical CAT Assessment, specifically excluding those costs related to the delay in the start of reporting to the CAT and costs related to the conclusion of the relationship with the Initial Plan Processor.'' CAT Funding Model Approval Order at 62663.

Operating expense	Excluded costs for November 15, 2017–November 15, 2018 *
Total Operating Expenses	48,874,937

* See footnote 68.[68]

The following provides additional detail regarding the Excluded Costs.

(a) Technology Costs—Cloud Hosting Services, Operating Fees, CAIS Operating Fees and Change Request Fees

CAT LLC did not incur technology costs related to the categories of cloud hosting services, operating fees, CAIS operating fees or change requests during the period from November 15, 2017 through November 15, 2018.

(b) Technology Costs—Capitalized Developed Technology Costs

Capitalized developed technology costs for the period from November 15, 2017 through November 15, 2018 include capitalizable application development costs of $37,852,083 incurred in the development of the CAT by the Initial Plan Processor. Such costs include development costs incurred during the application development stage to meet various agreed-upon milestones regarding the CAT, as defined in the agreement between CAT LLC and the Initial Plan Processor. Such costs include costs related to Industry Member technical specifications for orders and transactions, the system security plan, testing and production for Participant CAT reporting, third-party security assessment and response, query portal, onboarding of the Chief Information Security Officer, and ingestion of FINRA TRF data and FINRA data related to halts and corporate actions.

(c) Legal Costs

The legal costs of $6,143,278 represent the fees paid to WilmerHale for legal services from November 15, 2017 through November 15, 2018. During this period, WilmerHale provided legal assistance to the CAT including with regard to the following:

- Provided legal support for the governance of the CAT, including governance support for the Operating Committee, Advisory Committee, Compliance Subcommittee, and CAT working groups;
- Assisted with the development of the CAT funding model and drafted related amendments of the CAT NMS Plan;
- Provided assistance related to CAT security;
- Drafted exemptive requests, including requests related to PII;
- Assisted with the Implementation Plan required pursuant to Section 6.6(c)(i) of the CAT NMS Plan;
- Provided interpretations of and related to the CAT NMS Plan;
- Provided advice with regard to regulator access to the CAT;
- Assisted with the Plan Processor transition;
- Provided assistance regarding communications with the industry regarding the CAT;
- Provided advice regarding Customer Account Information and PII;
- Provided support for litigation related to SEC exemptive orders; and
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretative and implementation issues.

(d) Consulting Costs

The consulting costs of $4,452,106 represent the fees paid to Deloitte for their role as project manager for the CAT from November 15, 2017 through November 15, 2018. During this period, Deloitte engaged in the following activities with respect to the CAT:

- Implemented program operations for the CAT project;
- Provided governance support to the Operating Committee, including support for Subcommittees and working groups of the Operating Committee (*e.g.,* Compliance Subcommittee, Cost and Funding Working Group, Technical Working Group, Industry Outreach Working Group, Security Working Group and Steering Committee);
- Assisted with cost and funding issue for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;
- Provided support for updating the SEC on the progress of the development of the CAT; and
- Provided active planning and coordination with and support for the Initial Plan Processor with regard to the development of the CAT, and reported to the Participants on the progress.

(e) Insurance

CAT LLC did not incur costs related to insurance during the period from November 15, 2017 through November 15, 2018.

(f) Professional and Administration Costs

The professional and administration costs of $340,145 represent the fees paid to Anchin, Exegy and RSM from November 15, 2017 through November 15, 2018.

Financial Advisory Firm: Anchin. From the commencement of its engagment in April 2018 through November 15, 2018, Anchin engaged in the following activities with respect to the CAT:

- Developed, updated and maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed not-for-profit tax and accounting considerations;
- Prepared tax returns;
- Addressed various accounting, financial reporting and operating inquiries from Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
- Addressed accounting and financial matters relating to the transition from CAT NMS, LLC to Consolidated Audit Trail, LLC, including supporting the dissolution of CAT NMS, LLC;
- Supported compliance with the CAT NMS Plan;
- Worked with and provided support to the Operating Committee and various CAT working groups;
- Prepared monthly, quarterly and annual financial statements;
- Supported the annual financial statement audits by an independent auditor;
- Reviewed historical costs from inception; and
- Provided accounting and financial information in support of SEC filings.

Market Data Provider: Exegy. From July 2018 through November 15, 2018,

[68] The costs described in this table of Excluded Costs were calculated based upon CAT LLC's review of applicable bills and invoices and related financial statements. CAT LLC financial statements are available on the CAT website.

CAT LLC purchased market data from Exegy (as described in more detail above).

Security Assessment: RSM. From October 2018 through November 15, 2018, CAT LLC incurred costs for RSM's performance of a security assessment (as described in more detail above).

(g) Public Relations Costs

The public relations costs of $87,325 represent the fees paid to Sloane from November 15, 2017 through November 15, 2018. From the commencement of its engagment in March 2018 through November 15, 2018, Sloane provided professional communications services to CAT, including media relations consulting, strategy and execution. Specifically, Sloane provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (*e.g.,* congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (*e.g.,* amendments to the CAT NMS Plan).

(C) Historical Recovery Period 1

Under the CAT NMS Plan, the Operating Committee is required to reasonably establish the length of the Historical Recovery Period used in calculating each Historical Fee Rate based upon the amount of the Historical CAT Costs to be recovered by the Historical CAT Assessment, and to describe the reasons for its length.[69] The Historical Recovery Period used in calculating the Historical Fee Rate may not be less than 24 months or more than five years.[70] The Operating Committee has determined to establish a Historical Recovery Period 1 of 24 months for Historical CAT Assessment 1.

The Operating Committee determined that the length of Historical Recovery Period 1 appropriately weighs the need for a reasonable Historical Fee Rate 1 that spreads the Historical CAT Costs over an appropriate amount of time and the need to repay the loans to the Participants in a timely fashion. The Operating Committee determined that 24 months for Historical Recovery Period 1 would establish a fee rate that is lower than other transaction-based fees, including fees assessed pursuant to Section 31.[71] In addition, in establishing a Historical Recovery Period of 24 months, the Operating Committee recognized that the total costs for Historical CAT Assessment 1 were less than the total costs for 2022 and 2023,[72] and therefore it would be reasonable and appropriate to recover costs subject to this filing over an approximate two-year period. Furthermore, the Operating Committee notes that 24 months is appropriate because it is not currently proposing that Industry Members be required to pay additional CAT fees with regard to another Historical CAT Assessment or CAT Fees with regard to Prospective CAT Costs at the same time.

The length of the Historical Recovery Period 1 and the reasons for its length are provided in this filing in accordance with the requirement in the CAT NMS Plan to provide such information in a fee filing for a Historical CAT Assessment.[73]

(D) Projected Total Executed Equivalent Share Volume

The calculation of Historical Fee Rate 1 also requires the determination of the projected total executed equivalent share volume of transactions in Eligible Securities for Historical Recovery Period 1. Under the CAT NMS Plan, the Operating Committee is required to ''reasonably determine the projected total executed equivalent share volume of all transactions in Eligible Securities for each Historical Recovery Period based on the executed equivalent share volume of all transactions in Eligible Securities for the prior twelve months.'' [74] The Operating Committee is required to base its projection on the prior twelve months, but it may use its discretion to analyze the likely volume for the upcoming year. Such discretion would allow the Operating Committee to use its judgment when estimating projected total executed equivalent share volume if the volume over the prior twelve months was unusual or otherwise unfit to serve as the basis of a future volume estimate.[75]

The total executed equivalent share volume of transactions in Eligible Securities for the period from December 2022 through November 2023 was 3,842,861,347,279.44 executed equivalent shares. The Operating Committee has determined to calculate the projected total executed equivalent share volume for the 24 months of Historical Recovery Period 1 by doubling the executed equivalent share volume for the prior 12 months. The Operating Committee determined that such an approach was reasonable as the CAT's annual executed equivalent share volume has remained relatively constant. For example, the executed equivalent share volume for 2021 was 3,963,697,612,395 executed equivalent shares, and the executed equivalent share volume for 2022 was 4,039,821,841,560.31 executed equivalent shares. Accordingly, the projected total executed equivalent share volume for Historical Recovery Period 1 is projected to be 7,685,722,694,558.88 executed equivalent shares.[76]

The projected total executed equivalent share volume of all transactions in Eligible Securities for Historical Recovery Period 1 and a description of the calculation of the projection is provided in this filing in accordance with the requirement in the CAT NMS Plan to provide such information in a fee filing for a Historical CAT Assessment.[77]

(E) Historical Fee Rate 1

Historical Fee Rate 1 would be calculated by dividing Historical CAT Costs 1 by the reasonably projected total executed equivalent share volume of all transactions in Eligible Securities for Historical Recovery Period 1, as described in detail above.[78] Specifically, Historical Fee Rate 1 would be calculated by dividing $337,688,610 by 7,685,722,694,558.88. As a result, the Historical Fee Rate 1 would be $0.0000439371316687066 per executed equivalent share. Historical Fee Rate 1 is provided in this filing in accordance with the requirement in the CAT NMS Plan to provide the Historical Fee Rate

[69] Section 11.3(b)(i)(D)(I) and Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

[70] Section 11.3(b)(i)(D)(I) of the CAT NMS Plan. In the CAT Funding Model Approval Order, the SEC stated that ''[i]n the Commission's view, it is reasonable for the Operating Committee to establish the length of the Historical Recovery Period to be no less than 24 months and no more than five years.'' CAT Funding Model Approval Order at 62664.

[71] As the SEC noted in the CAT Funding Model Approval Order, recent Section 31 fees ranged from $0.00009 per share to $0.0004 per share. CAT Funding Model at 62682.

[72] The total CAT costs for 2022 were approximately $186 million and the total CAT costs for 2023 are estimated to be approximately $233 million.

[73] Section 11.3(b)(iii)(B)(II)(C) of the CAT NMS Plan.

[74] Section 11.3(b)(i)(E) of the CAT NMS Plan.

[75] CAT Funding Model Approval Order at 62664.

[76] This projection was calculated by multiplying 3,842,861,347,279.44 executed equivalent shares by two.

[77] Section 11.3(b)(iii)(B)(II)(D) of the CAT NMS Plan.

[78] In approving the CAT Funding Model, the Commission stated that ''[t]he calculation of the Historical Fee Rate by dividing the Historical CAT Costs by the projected total executed equivalent share volume of all transactions in Eligible Securities for the Historical Recovery Period is reasonable.'' CAT Funding Model Approval Order at 62664.

in a fee filing for a Historical CAT Assessment.[79]

(3) Past CAT Costs and Participants

Participants would not be required to pay any fees associated with Historical CAT Assessment 1 as the Participants previously have paid all Past CAT Costs. The CAT NMS Plan explains that:

Because Participants previously have paid Past CAT Costs via loans to the Company, Participants would not be required to pay any Historical CAT Assessment. In lieu of a Historical CAT Assessment, the Participants' one-third share of Historical CAT Costs and such other additional Past CAT Costs as reasonably determined by the Operating Committee will be paid by the cancellation of loans made to the Company on a pro rata basis based on the outstanding loan amounts due under the loans.[80]

The CAT NMS Plan further states that ''Historical CAT Assessments are designed to recover two-thirds of the Historical CAT Costs.'' [81]

(4) Monthly Fees

CEBBs and CEBSs would be required to pay fees for Historical CAT Assessment 1 on a monthly basis for the period in which Historical CAT Assessment 1 is in effect.[82] A CEBB or CEBS's fee for each month would be calculated based on the transactions in Eligible Securities executed by the CEBB or CEBS from the prior month.[83] Proposed paragraph (a)(1)(A) of the fee schedule would state that each CAT Executing Broker would receive its first invoice in April 2024, and ''would receive an invoice each month thereafter in which Historical CAT Assessment 1 is in effect.'' Proposed paragraph (a)(1)(B) of the fee schedule would state that ''Consolidated Audited Trail, LLC shall provide each CAT Executing Broker with an invoice for Historical CAT Assessment 1 on a monthly basis.'' In addition, proposed paragraph (b)(1) of the fee schedule states that each CEBB and CEBS is required to pay its CAT fees ''each month.''

(5) Actual Recovery Period for Historical CAT Assessment 1

The CAT NMS Plan states that, ''[n]otwithstanding the length of the Historical Recovery Period used in calculating the Historical Fee Rate, each Historical CAT Assessment calculated using the Historical Fee Rate will remain in effect until all Historical CAT Costs for the Historical CAT Assessment are collected.'' [84] Accordingly, Historical CAT Assessment 1 will remain in effect until all Historical CAT Costs 1 have been collected. The actual recovery period for Historical CAT Assessment 1 may be shorter or longer than Historical Recovery Period 1 depending on the actual executed equivalent share volumes during the time that Historical CAT Assessment 1 is in effect.[85]

(6) Consolidated Audit Trail Funding Fees

To implement Historical CAT Assessment 1, a ''Consolidated Audit Trail Funding Fees'' section would be added to the Exchange's fee schedule, to include the proposed paragraphs described below.

(A) Fee Schedule for Historical CAT Assessment 1

The CAT NMS Plan states that:

Each month in which a Historical CAT Assessment is in effect, each CEBB and each CEBS shall pay a fee for each transaction in Eligible Securities executed by the CEBB or CEBS from the prior month as set forth in CAT Data, where the Historical CAT Assessment for each transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by one-third and by the Historical Fee Rate reasonably determined pursuant to paragraph (b)(i) of this Section 11.3.[86]

Accordingly, based on the factors discussed above, the Exchange proposes to add paragraph (a)(1) to the Consolidated Audit Trail Funding Fees section of its fee schedule. Proposed paragraph (a)(1) would state the following:

(A) Each CAT Executing Broker shall receive its first invoice for Historical CAT Assessment 1 in April 2024, which shall set forth the Historical CAT Assessment 1 fees calculated based on transactions in March 2024, and shall receive an invoice for Historical CAT Assessment 1 for each month thereafter in which Historical CAT Assessment 1 is in effect.

(B) Consolidated Audit Trail, LLC shall provide each CAT Executing Broker with an invoice for Historical CAT Assessment 1 on a monthly basis. Each month, such invoices shall set forth a fee for each transaction in Eligible Securities executed by the CAT Executing Broker in its capacity as a CAT Executing Broker for the Buyer (''CEBB'') and/or the CAT Executing Broker for the Seller (''CEBS'') (as applicable) from the prior month as set forth in CAT Data. The fee for each such transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by the fee rate of $0.000015 per executed equivalent share.

(C) Historical CAT Assessment 1 will remain in effect until $225,125,740 (two-thirds of Historical CAT Costs 1) are collected from CAT Executing Brokers collectively, which is estimated to be approximately two years, but could be for a longer or shorter period of time. Consolidated Audit Trail, LLC will provide notice when Historical CAT Assessment 1 will no longer be in effect.

(D) Each CAT Executing Broker shall be required to pay each invoice for Historical CAT Assessment 1 in accordance with paragraph (b).

As noted in the Plan amendment for the CAT Funding Model, ''as a practical matter, the fee filing for a Historical CAT Assessment would provide the exact fee per executed equivalent share to be paid for each Historical CAT Assessment, by multiplying the Historical Fee Rate by one-third and describing the relevant number of decimal places for the fee rate.[87] Accordingly, proposed paragraph (a)(1)(B) of the fee schedule would set forth a fee rate of $0.000015 per executed equivalent share. This fee rate is calculated by multiplying Historical Fee Rate 1 of $0.0000439371316687066 by one-third, and rounding the result to 6 decimal places.[88] The Operating Committee determined to use six decimal places to balance the accuracy of the calculation with the potential systems and other impracticalities of using additional decimal places in the calculation.

The proposed language in paragraph (a)(1)(A) of the fee schedule would describe when CAT Executing Brokers would receive their first monthly invoice for Historical CAT Assessment 1. Specifically, CAT Executing Brokers would receive their first monthly invoice for Historical CAT Assessment 1 in April 2024 and the fees set forth in

[79] Section 11.3(b)(iii)(B)(II)(A) of the CAT NMS Plan.

[80] Section 11.3(b)(ii) of the CAT NMS Plan.

[81] *Id.* In approving the CAT Funding Model, the Commission stated that ''[t]he proposed allocation of the Historical CAT Assessment solely to CEBs and CEBBs, and ultimately Industry Members, is reasonable. The Historical CAT Assessment will still be divided into thirds,'' as the Participants' one-third share of Historical CAT Costs will be paid by the cancellation of loans made to the Company. CAT Funding Model Approval Order at 62666.

[82] *See* Section 11.3(b)(iii)(A) of the CAT NMS Plan.

[83] See proposed paragraph (a)(1)(B) of the fee schedule.

[84] Section 11.3(b)(i)(D)(II) of the CAT NMS Plan.

[85] In approving the CAT Funding Model, the Commission stated that ''[i]n the Commission's view, it is reasonable for Industry Members to be charged a Historical CAT Assessment until all Historical CAT Costs for the Historical CAT Assessment are collected.'' CAT Funding Model Approval Order at 62665.

[86] Section 11.3(b)(iii)(A) of the CAT NMS Plan.

[87] CAT Funding Model Approval Order at 62658, n.658.

[88] Dividing $0.0000439371316687066 by three equals $0.00001464571055623553. Rounding $0.00001464571055623553 to six decimal places equals $0.000015.

that invoice would be calculated based on transactions executed in the prior month, that is, transactions executed in March 2024. The payment for the first invoice would be required within 30 days after the receipt of the first invoice (unless a longer period is indicated), as described in proposed paragraph (b)(2) of the fee schedule.

Proposed paragraph (a)(1)(A) of the fee schedule also would describe the monthly cadence of the invoices for Historical CAT Assessment 1. Specifically, after the first invoices are provided to CAT Executing Brokers in April 2024, invoices will be sent to CAT Executing Brokers each month thereafter while Historical CAT Assessment 1 is in effect.

Proposed paragraph (a)(1)(B) of the fee schedule would describe the invoices for Historical CAT Assessment 1. Proposed paragraph (a)(1)(B) of the fee schedule would state that ''Consolidated Audit Trail, LLC shall provide each CAT Executing Broker with an invoice for Historical CAT Assessment 1 on a monthly basis.'' Proposed paragraph (a)(1)(B) of the fee schedule also would describe the fees to be set forth in the invoices for Historical CAT Assessment 1. Specifically, it would state that ''[e]ach month, such invoices shall set forth a fee for each transaction in Eligible Securities executed by the CAT Executing Broker in its capacity as a CAT Executing Broker for the Buyer (''CEBB'') and/or the CAT Executing Broker for the Seller (''CEBS'') (as applicable) from the prior month as set forth in CAT Data. The fee for each such transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by the fee rate of $0.000015 per executed equivalent share.''

Furthermore, proposed paragraph (a)(1)(C) of the fee schedule would describe how long Historical CAT Assessment 1 would remain in effect. It would state that ''Historical CAT Assessment 1 will remain in effect until $225,125,740 (two-thirds of Historical CAT Costs 1) are collected from CAT Executing Brokers collectively, which is estimated to be approximately two years, but could be for a longer or shorter period of time.'' This proposed paragraph would further state that ''Consolidated Audit Trail, LLC will be [*sic*] provide notice when Historical CAT Assessment 1 will no longer be in effect.''

Historical CAT Assessment 1 will be assessed for all transactions executed in each month through the end of the month in which two-thirds of Historical CAT Costs 1 are assessed, and then CAT LLC will provide notice that Historical CAT Assessment 1 is no longer in effect. Since Historical CAT Assessment 1 is a monthly fee based on transaction volume from the prior month, Historical CAT Assessment 1 may collect more than two-thirds of Historical CAT Costs 1. To the extent that occurs, any excess money collected during the final month in which Historical CAT Assessment 1 is in effect will be used to offset future fees and/or to fund the reserve for the CAT.

Finally, proposed paragraph (a)(1)(D) of the fee schedule sets forth the requirement for the CAT Executing Brokers to pay the invoices for Historical CAT Assessment 1. It would state that ''[e]ach CAT Executing Broker shall be required to pay each invoice for Historical CAT Assessment 1 in accordance with paragraph (b).''

(B) Manner of Payment

The Exchange proposes to add paragraph (b)(1) to the ''Consolidated Audit Trail Funding Fees'' section of its fee schedule to describe the manner of payment of Industry Member CAT fees. The CAT NMS Plan requires the Operating Committee to establish a system for the collection of CAT fees.[89] The Plan Processor has established a billing system for CAT fees.[90] Therefore, the Exchange proposes to require CAT Executing Brokers to pay Historical CAT Assessment 1 in accordance with such system. Accordingly, proposed paragraph (b)(1) would state that ''[e]ach CAT Executing Broker shall pay its CAT fees as required pursuant to paragraph (a) each month to the Consolidated Audit Trail, LLC in the manner prescribed by the Consolidated Audit Trail, LLC.''

(C) Failure To Pay CAT Fees

The CAT NMS Plan further states that:

> Participants shall require each Industry Member to pay all applicable fees authorized under this Article XI within thirty (30) days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If an Industry Member fails to pay any such fee when due (as determined in accordance with the preceding sentence), such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (a) the Prime Rate plus 300 basis points; or (b) the maximum rate permitted by applicable law.[91]

Accordingly, the Exchange proposes to add this requirement to the Exchange's fee schedule. Proposed paragraph (b)(2) of the fee schedule would state:

> Each CAT Executing Broker shall pay the CAT fees required pursuant to paragraph (a) within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If a CAT Executing Broker fails to pay any such CAT fee when due, such CAT Executing Broker shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

(7) Historical CAT Assessment Details

The CAT NMS Plan states that:

> Details regarding the calculation of a CAT Executing Broker's Historical CAT Assessment will be provided upon request to such CAT Executing Broker. At a minimum, such details would include each CAT Executing Broker's executed equivalent share volume and corresponding fee by (1) Listed Options, NMS Stocks and OTC Equity Securities, (2) by transactions executed on each exchange and transactions executed otherwise than on an exchange, and (3) by buy-side transactions and sell-side transactions.[92]

Such information would provide CEBBs and CEBSs with the ability to understand the details regarding the calculation of their Historical CAT Assessment.[93] CAT LLC will provide CAT Executing Brokers with these details regarding the calculation of their Historical CAT Assessments on their monthly invoice for the Historical CAT Assessment.

In addition, CAT LLC will make certain aggregate statistics regarding Historical CAT Assessments publicly available. Specifically, the CAT NMS Plan states that, ''[f]or each Historical CAT Assessment, at a minimum, CAT LLC will make publicly available the aggregate executed equivalent share volume and corresponding aggregate fee by (1) Listed Options, NMS Stocks and OTC Equity Securities, (2) by transactions executed on each exchange and transactions executed otherwise on an exchange, and (3) by buy-side

[89] Section 11.4 of the CAT NMS Plan.

[90] The billing process and system are described in CAT Alert 2023–02 as well as the CAT FAQs related to the billing of CAT fees, the Industry Member CAT Reporter Portal User Guide, the FCAT Industry Member Onboarding Guide, the FCAT Connectivity Supplement for Industry Members and the CAT Billing Webinars (dated September 28, 2023 and November 7, 2023), each available on the CAT website.

[91] Section 11.4 of the CAT NMS Plan.

[92] Section 11.3(a)(iv)(A) of the CAT NMS Plan.

[93] In approving the CAT Funding Model, the Commission stated that, ''[i]n the Commission's view, providing CAT Execut[ing] Brokers information regarding the calculation of their CAT Fees will aid in transparency and permit CAT Execut[ing] Brokers to confirm the accuracy of their invoices for CAT Fees.'' CAT Funding Model Approval Order at 62667.

transactions and sell-side transactions.'' [94] Such aggregate statistics will be available on the CAT website.

Furthermore, CAT LLC will make publicly available on the CAT website the total amount invoiced each month that Historical CAT Assessment 1 is in effect as well as the total amount invoiced for Historical CAT Assessment 1 for all months since its commencement. CAT LLC also will make publicly available on the CAT website the total costs to be collected from Industry Members for Historical CAT Assessment 1. By reviewing statistics regarding how much has been invoiced and how much remains to be invoiced for Historical CAT Assessment 1, Industry Members would have sufficient information to reasonably track how much longer Historical CAT Assessment 1 is likely to be in place.

(8) Implementation Assistance

To assist Industry Members with compliance with the commencement of Historical CAT Assessment 1, CAT LLC will make available to CAT Executing Brokers four months of mock invoices prior to the commencement of Historical CAT Assessment 1. Specifically, CAT Executing Brokers will receive mock invoices based on transaction data from November 2023, December 2023, January 2024 and February 2024. The mock invoices will be in the same form as the actual, payable invoices, including both the relevant transaction data and the corresponding fee. However, no payments will be required in response to such mock invoices; they are to be used solely to assist CAT Executing Brokers with the development of their processes for paying the CAT fees. Such data will provide CAT Executing Brokers with a preview of the transaction data used in creating the invoices for Historical CAT Assessment 1 fees, as the data will be the same as data provided in actual invoices. Such data preview is intended to facilitate the payment of Historical CAT Assessment 1.

(9) Financial Accountability Milestones

The CAT NMS Plan states that ''[n]o Participant will make a filing with the SEC pursuant to Section 19(b) of the Exchange Act regarding any Historical CAT Assessment until any applicable Financial Accountability Milestone described in Section 11.6 has been satisfied.'' [95] The CAT NMS Plan further states that ''in all filings submitted by the Participants to the Commission under Section 19(b) of the Exchange Act, to establish or implement Post-Amendment Industry Member Fees pursuant to this Article, . . . the Participants shall clearly indicate whether such fees are related to Post-Amendment Expenses incurred during Period 1, Period 2, Period 3, or Period 4.'' [96] As discussed in detail below, all applicable Financial Accountability Milestones for Historical CAT Assessment 1—that is, Period 1, Period 2 and Period 3 of the Financial Accountability Milestones—have been satisfied. Furthermore, as discussed below, this filing clearly indicates that Historical CAT Assessment 1 relates to Post-Amendment Expenses incurred during Periods 1, 2 and 3 of the Financial Accountability Milestones.

(A) Period 1 of the Financial Accountability Milestones

In accordance with Section 11.6(b) of the CAT NMS Plan, Historical CAT Assessment 1 seeks to recover costs that are related to ''all fees, costs, and expenses (including legal and consulting fees, costs, and expenses) incurred by or for the Company in connection with the development, implementation and operation of the CAT from the effective date of [Section 11.6 of the CAT NMS Plan] until such time as Full Implementation of CAT NMS Plan Requirements has been achieved'' [97] (''Post-Amendment Expenses'') incurred during FAM Period 1. FAM Period 1 began on June 22, 2020, the effective date of Section 11.6 of the CAT NMS Plan, and concluded on July 31, 2020, the date of Initial Industry Member Core Equity and Options Reporting. Section 1.1 of the CAT NMS Plan defines ''Initial Industry Member Core Equity and Options Reporting'' as:

The reporting by Industry Members (excluding Small Industry Members that are not OATS reporters) of both: (a) equities transaction data, excluding Customer Account Information, Customer-ID, and Customer Identifying Information; and (b) options transaction data, excluding Customer Account Information, Customer-ID and Customer Identifying Information.

Under Section 1.1 of the CAT NMS Plan, this Financial Accountability Milestone is considered complete as of the date identified in the Participants' Quarterly Progress Reports.[98] As indicated by the Participants' Quarterly Progress Report for the third quarter of 2020,[99] Initial Industry Member Core Equity and Option Reporting was completed on schedule on July 22, 2020, which is prior to the July 31, 2020 deadline.

Under the FAM Period 1 requirement of Initial Industry Member Core Equity and Options Reporting, Industry Members—excluding Small Industry Members that are not OATS reporters—were required to report two categories of data to the CAT: equites transaction data and options transaction data (both excluding Customer Account Information, Customer-ID, and Customer Identifying Information) by July 31, 2020. Pursuant to exemptive relief provided by the Commission, the Commission authorized the Participants' Compliance Rules to allow core equity reporting for Industry Members (Phase 2a) to begin on June 22, 2020 and core options reporting for Industry Members (Phase 2b) to begin on July 20, 2020.[100]

In adopting the FAMs, the Commission stated that the equities transaction reporting required for FAM Period 1 ''is consistent with the functionality that the Participants describe on the CAT NMS Plan website as 'Production Go-Live for Equities 2a file submission and data integrity validations.' '' [101] The Phase 2a Industry Member Data is described in detail in the SEC's Phased Reporting Exemptive Relief Order, and includes the following data related to Eligible Securities that are equities:

- All events and scenarios covered by OATS, which includes information related to the receipt or origination of

[94] Section 11.3(a)(iv)(B) of the CAT NMS Plan. In approving the CAT Funding Model, the Commission stated that ''[t]he publication of the aggregate executed equivalent share volume and aggregate fee is appropriate because it would allow Participants and CAT Executing Brokers a high-level validation of executed volume and fees.'' CAT Funding Model Approval Order at 62667.

[95] Section 11.3(b)(iii)(B)(III) of the CAT NMS Plan.

[96] Section 11.6(b) of the CAT NMS Plan.

[97] Section 11.6 of the CAT NMS Plan.

[98] The Quarterly Progress Reports are available at *https://www.catnmsplan.com/implementation-plan*.

[99] *See* Q3 2020 Quarterly Progress Report (Oct. 30, 2020) and Updated Q3 2020 Quarterly Progress Report (Jan. 29, 2021).

[100] *See* Phased Reporting Exemptive Relief Order. Under the CAT NMS Plan as adopted, the Participants were required, through their Compliance Rules, to require their Large Industry Members to commence reporting Industry Member Data to the Central Repository by November 15, 2018, and to require their Small Industry Members to commence reporting Industry Member Data to the Central Repository by November 15, 2019. Sections 6.7(a)(v) and (vi) of the CAT NMS Plan. The SEC granted exemptive relief from these provisions of the CAT NMS Plan to allow for the phased implementation of Industry Member reporting via five phases addressing the reporting requirements for Phase 2a Industry Member Data, Phase 2b Industry Member Data, Phase 2c Industry Member Data, Phase 2d Industry Member Data and Phase 2e Industry Member Data.

[101] Securities Exchange Act Rel. No. 88890, 85 FR 31322, 31330 n.97 (''FAM Adopting Release'').

orders, order transmittal, and order modifications, cancellations and executions;

• Reportable Events for: (1) proprietary orders, including market maker orders, for Eligible Securities that are equities; (2) electronic quotes in listed equity Eligible Securities (*i.e.,* NMS stocks) sent to a national securities exchange or FINRA's Alternative Display Facility (''ADF''); (3) electronic quotes in unlisted Eligible Securities (*i.e.,* OTC Equity Securities) received by an Industry Member operating an interdealer quotation system (''IDQS''); and (4) electronic quotes in unlisted Eligible Securities sent to an IDQS or other quotation system not operated by a Participant or Industry Member;

• Firm Designated IDs (''FDIDs''), which Industry Members must report to the CAT as required by Sections 6.3(d)(i)(A) and 6.4(d)(ii)(C) of the CAT NMS Plan.

• Industry Members would be required to report all street side representative orders, including both agency and proprietary orders and mark such orders as representative orders, except in certain limited exceptions as described in the Industry Member Technical Specifications;

• The link between the street side representative order and the order being represented when: (1) the representative order was originated specifically to represent a single order received either from a customer or another broker-dealer; and (2) there is (a) an existing direct electronic link in the Industry Member's system between the order being represented and the representative order and (b) any resulting executions are immediately and automatically applied to the represented order in the Industry Member's system;

• Manual and Electronic Capture Time for Manual Order Events;

• Special handling instructions for the original receipt or origination of an order during Phase 2a; and

• When routing an order, whether the order was routed as an intermarket sweep order (''ISO'').

In Phase 2a, Industry Members were not required to report modifications of a previously routed order in certain limited instances, nor were they required to report a cancellation of an order received from a Customer after the order has been executed.[102]

The Quarterly Progress Report for the third quarter of 2020 states that ''Interim Step: Production Go-Live for Equities 2a file submission and data integrity validation (Large Industry Members and Small OATS Reporters)'' was completed on June 22, 2020. Accordingly, the FAM Period 1 requirement of reporting by Industry Members (excluding Small Industry Members that are not OATS reporters) of ''equities transaction data, excluding Customer Account Information, Customer-ID, and Customer Identifying Information'' was completed on June 22, 2020.

In adopting the FAMs, the Commission stated that the options transaction reporting required for FAM Period 1 is ''consistent with the functionality that the Participants describe on the CAT NMS Plan website as 'Production Go-Live for Options 2b file submission and data integrity validations.' '' [103] The Phase 2b Industry Member Data is described in detail in the SEC's Phased Reporting Exemptive Relief Order, and includes the Industry Member Data related to Eligible Securities that are options and related to simple electronic option orders, excluding electronic paired option orders. A simple electronic option order is an order to buy or sell a single option that is not related to or dependent on any other transaction for pricing and timing of execution that is either received or routed electronically by an Industry Member. Electronic receipt of an order is defined as the initial receipt of an order by an Industry Member in electronic form in standard format directly into an order handling or execution system. Electronic routing of an order is the routing of an order via electronic medium in standard format from one Industry Member's order handling or execution system to an exchange or another Industry Member. An electronic paired option order is an electronic option order that contains both the buy and sell side that is routed to another Industry Member or exchange for crossing and/or price improvement as a single transaction on an exchange. Responses to auctions of simple orders and paired simple orders would be reportable in Phase 2b. Furthermore, combined orders in options would be treated in Phase 2b in the same way as equity representative orders are treated in Phase 2a. A combined order would mean, as permitted by SRO rules, a single, simple order in Listed Options created by combining individual, simple orders in Listed Options from a customer with the same exchange origin code before routing to an exchange. During Phase 2b, the single combined order sent to an exchange must be reported and marked as a combined order, but the linkage to the underlying orders is not required to be reported until Phase 2d.[104]

The Quarterly Progress Report for the third quarter of 2020 states that ''Interim Step: Production Go-Live for Options 2b file submission and data integrity validations'' was completed on July 20, 2020. Accordingly, the FAM Period 1 requirement of reporting by Industry Members (excluding Small Industry Members that are not OATS reporters) of ''options transaction data, excluding Customer Account Information, Customer-ID and Customer Identifying Information'' was completed on July 20, 2020.

As discussed above, the Historical CAT Costs 1 to be recovered via Historical CAT Assessment 1 would include fees, costs and expenses incurred by or for the Company in connection with the development, implementation and operation of the CAT during the period from June 22, 2020 through July 31, 2020. The total costs for this period, as discussed above, are $6,377,343. Participants would remain responsible for one-third of this cost (which they have previously paid), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third ($2,125,781) and CEBSs paying one-third ($2,125,781).

(B) Period 2 of the Financial Accountability Milestones

Historical CAT Assessment 1 seeks to recover costs that are related to Post-Amendment Expenses incurred during FAM Period 2. FAM Period 2 began on August 1, 2020, and concluded on December 31, 2020, the date of the Full Implementation of Core Equity Reporting. Section 1.1 of the CAT NMS Plan defines ''Full Implementation of Core Equity Reporting'' as:

> the point at which: (a) Industry Member reporting (excluding reporting by Small Industry Members that are not OATS reporters) for equities transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, is developed, tested, and implemented at a 5% Error Rate or less and with sufficient intra-firm linkage, inter-firm linkage, national securities exchange linkage, and trade reporting facilities linkage to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, excluding linkage of representative orders, from order origination through order execution or order cancellation; and (b) the query tool functionality required by Section 6.10(c)(i)(A) and Appendix D, Sections 8.1.1–8.1.3 and Section 8.2.1 incorporates the Industry Member equities transaction data

[102] Phased Reporting Exemptive Relief Order at 23076–78.

[103] FAM Adopting Release at 31330, n.98.

[104] Phased Reporting Exemptive Relief Order at 23078.

described in condition (a) and is available to the Participants and to the Commission. This Financial Accountability Milestone shall be considered complete as of the date identified in a Quarterly Progress Report meeting the requirements of Section 6.6(c).

Under Section 1.1 of the CAT NMS Plan, this Financial Accountability Milestone is considered complete as of the date identified in the Participants' Quarterly Progress Reports. As indicated by the Participants' Quarterly Progress Report for the fourth quarter of 2020,[105] Full Implementation of Core Equity Reporting was completed on schedule by December 31, 2020.

Specifically, the Full Implementation of Core Equity Reporting requires the satisfaction of two prongs. The first prong requires Participants to have fully implemented the first phase of equities transaction reporting for Industry Members (excluding Small Industry Members that are not OATS reporters) at an Error Rate of less than 5%. In addition, equities transaction data produced by the CAT at this stage must also be sufficiently interlinked so as to permit full analysis of an order's lifecycle across the national market, excluding full linkage of representative orders. As CAT LLC reported on its Quarterly Progress Reports, Phase 2a was fully implemented as of October 26, 2020, including intra-firm, inter-firm, national securities exchange, and trade reporting facilities linkages.[106] In addition to the reporting of Phase 2a Industry Member Data as described above with regard to FAM Period 1, the following linkage data was added to the CAT as described in the Quarterly Progress Reports for the third and fourth quarter of 2020:

- ''Production Go-Live for Equities 2a Intrafirm Linkage validations'' was completed on 7/27/2020; [107]
- ''Production Go-Live for Firm to Firm Linkage validations for Equities 2a (Large Industry Members and Small OATS Reporters)'' was completed on October 26, 2020; and
- ''Production Go-Live for Equities 2a Exchange and TRF Linkage validations (Large Industry Members and Small OATS Reporters)'' was completed on October 26, 2020.

Furthermore, as CAT LLC reported on its Quarterly Progress Report for the fourth quarter of 2020, the average overall error rate for Phase 2a Industry Member Data was less than 5% as of December 31, 2020. The average overall error rate was calculated by dividing the compliance errors by processed records.

The second prong of this FAM requires that the equities transaction data collected by the CAT at this stage be made available to regulators through two basic query tools required by the CAT NMS Plan—a targeted query tool that will enable regulators to retrieve data via an online query screen with a variety of predefined selection criteria, and a user-defined direct query tool that will provide regulators with the ability to query data using all available attributes and data sources.[108] As CAT LLC reported on its Quarterly Progress Reports, the query tool functionality incorporating the data from Phase 2a was available to the Participants and the Commission as of December 31, 2020.[109]

The Commission has determined that the Participants have sufficiently complied with the conditions set forth in the 2020 Orders and with the technical requirements for Quarterly Progress Reports set forth in Section 6.6(c) of the CAT NMS Plan for purposes of determining compliance with this FAM.[110]

As discussed above, Historical CAT Costs 1 to be recovered via Historical CAT Assessment 1 would include fees, costs and expenses incurred by or for the Company in connection with the development, implementation and operation of the CAT during the period from August 1, 2020 through December 31, 2020. The total costs for this period, as discussed above, are $42,976,478. Participants would remain responsible for one-third of this cost (which they have previously paid), and Industry Members would be responsible for the remain two-thirds, with CEBBs paying one-third ($14,325,492.70) and CEBSs paying one-third ($14,325,492.70).

(C) Period 3 of the Financial Accountability Milestones

Historical CAT Assessment 1 seeks to recover costs that are related to Post-Amendment Expenses incurred during FAM Period 3. FAM Period 3 began on January 1, 2021, and concluded on December 31, 2021, the date of the Full Availability and Regulatory Utilization of Transactional Database Functionality. Section 1.1 of the CAT NMS Plan defines ''Full Availability and Regulatory Utilization of Transactional Database Functionality'' as:

> the point at which: (a) reporting to the Order Audit Trail System (''OATS'') is no longer required for new orders; (b) Industry Member reporting for equities transactions and simple electronic options transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, with sufficient intra-firm linkage, inter-firm linkage, national securities exchange linkage, trade reporting facilities linkage, and representative order linkages (including any equities allocation information provided in an Allocation Report) to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, from order origination through order execution or order cancellation, is developed, tested, and implemented at a 5% Error Rate or less; (c) Industry Member reporting for manual options transactions and complex options transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, with all required linkages to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, from order origination through order execution or order cancellation, including any options allocation information provided in an Allocation Report, is developed, tested, and fully implemented; (d) the query tool functionality required by Section 6.10(c)(i)(A) and Appendix D, Sections 8.1.1–8.1.3, Section 8.2.1, and Section 8.5 incorporates the data described in conditions (b)–(c) and is available to the Participants and to the Commission; and (e) the requirements of Section 6.10(a) are met. This Financial Accountability Milestone shall be considered complete as of the date identified in a Quarterly Progress Report meeting the requirements of Section 6.6(c).

Under Section 1.1 of the CAT NMS Plan, this Financial Accountability Milestone is considered complete as of the date identified in the Participants' Quarterly Progress Reports. As indicated by the Participants' Quarterly Progress Report for the fourth quarter of 2021,[111] Full Availability and Regulatory Utilization of Transactional Database Functionality was completed on schedule by December 31, 2021.

Specifically, the ''Full Availability and Regulatory Utilization of Transactional Database Functionality'' requires the satisfaction of five prongs. The first prong requires that reporting to

[105] Q4 2020 Quarterly Progress Report (Jan. 29, 2021).

[106] For a description of the requirements of Phases 2a, *see* Phased Reporting Exemptive Relief Order.

[107] Q3 2020 Quarterly Progress Report (Oct. 20, 2021).

[108] Section 6.10(c)(i)(A) of the CAT NMS Plan requires the Plan Processor to ''provide Participants and the SEC with access to all CAT Data stored in the Central Repository'' via an ''online targeted query tool.'' Appendix D, Sections 8.1.1–8.1.3 of the CAT NMS Plan describes the required functionality associated with this regulatory tool. Appendix D, Section 8.2.1 describes the required functionality associated with a user-defined direct query tool that will ''deliver large sets of data that can then be used in internal surveillance or market analysis applications.''

[109] *See* Q3 2020 Quarterly Progress Report (Oct. 30, 2020); Updated Q3 2020 Quarterly Progress Report (Jan. 29, 2021); and Q4 2020 Quarterly Progress Report (Jan. 29, 2021).

[110] Securities Exchange Act Rel. No. 98848 (Nov. 2, 2023), 88 FR 77128, 77129 n.13 (Nov. 8, 2023) (''Settlement Exemptive Order'').

[111] Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

the Order Audit Trail System (''OATS'') is no longer required for new orders. As CAT LLC reported on its Quarterly Progress Report for the fourth quarter of 2021,[112] FINRA retired OATS effective September 1, 2021.[113] Accordingly, after the retirement of OATS, reporting to OATS was no longer required.

In addition to Phase 2a and Phase 2b Industry Member Data, the second and third prongs of ''Full Availability and Regulatory Utilization of Transactional Database Functionality'' require Industry Member reporting of Phase 2c Industry Member Data and Phase 2d Industry Member Data. The Phase 2c Industry Member Data is described in detail in the SEC's Phased Reporting Exemptive Relief Order. That Order states that ''Phase 2c Industry Member Data'' is Industry Member Data related to Eligible Securities that are equities other than Phase 2a Industry Member Data, Phase 2d Industry Member Data, or Phase 2e Industry Member Data. Specifically, the Phase 2c Industry Member Data includes Industry Member Data that is related to Eligible Securities that are equities and that is related to: (1) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan; (2) quotes in unlisted Eligible Securities sent to an IDQS operated by a CAT Reporter (reportable by the Industry Member sending the quotes) (except for quotes reportable in Phase 2d, as discussed below); (3) electronic quotes in listed equity Eligible Securities (*i.e.,* NMS stocks) that are not sent to a national securities exchange or FINRA's Alternative Display Facility; (4) reporting changes to client instructions regarding modifications to algorithms; (5) marking as a representative order any order originated to work a customer order in price guarantee scenarios, such as a guaranteed VWAP; (6) flagging rejected external routes to indicate a route was not accepted by the receiving destination; (7) linkage of duplicate electronic messages related to a Manual Order Event between the electronic event and the original manual route; (8) special handling instructions on order route reports (other than the ISO, which is required to be reported in Phase 2a); (9) quote identifier on trade events; (10) reporting of LTIDs (if applicable) for accounts with Reportable Events that are reportable to CAT as of and including Phase 2c; (11) reporting of date account opened or Account Effective Date71 (as applicable) for accounts and reporting of a flag indicating the Firm Designated ID type as account or relationship; (12) order effective time for orders that are received by an Industry Member and do not become effective until a later time; (13) the modification or cancellation of an internal route of an order; and (14) linkages to the customer orders(s) being represented for representative order scenarios, including agency average price trades, net trades, aggregated orders, and disconnected Order Management System (''OMS'')—Execution Management System (''EMS'') scenarios, as required in the Industry Member Technical Specifications.[114]

Phase 2c Industry Member Data also includes electronic quotes that are provided by or received in a CAT Reporter's order/quote handling or execution systems in Eligible Securities that are equities and are provided by an Industry Member to other market participants off a national securities exchange under the following conditions: (1) an equity bid or offer is displayed publicly or has been communicated (a) for listed securities to the Alternative Display Facility (ADF) operated by FINRA; or (b) for unlisted equity securities to an ''interdealer quotation system,'' as defined in FINRA Rule 6420(c); or (2) an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing; *i.e.,* no further manual or electronic action is required by the responder providing the quote in order to execute or cause a trade to be executed). With respect to OTC Equity Securities, OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter (other than such an IDQS that does not match and execute orders) are reportable by the Industry Member sending them in Phase 2c. Accordingly, any response to a request for quote or other form of solicitation response provided in a standard electronic format (*e.g.,* FIX) that meets this quote definition (*i.e.,* an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing) would be reportable in Phase 2c.[115]

The Phase 2d Industry Member Data is described in detail in the SEC's Phased Reporting Exemptive Relief Order. ''Phase 2d Industry Member Data'' is Industry Member Data that is related to Eligible Securities that are options other than Phase 2b Industry Member Data, Industry Member Data that is related to Eligible Securities that are equities other than Phase 2a Industry Member Data or Phase 2c Industry Member Data, and Industry Member Data other than Phase 2e Industry Member Data. Phase 2d Industry Member Data includes with respect to the Eligible Securities that are options: (1) simple manual orders; (2) electronic and manual paired orders; (3) all complex orders with linkages to all CAT-reportable legs; (4) LTIDs (if applicable) for accounts with Reportable Events for Phase 2d; (5) date account opened or Account Effective Date (as applicable) for accounts with an LTID and flag indicating the Firm Designated ID type as account or relationship for such accounts; (6) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan; (7) the modification or cancellation of an internal route of an order; and (8) linkage between a combined order and the original customer orders. Phase 2d Industry Member Data also would include electronic quotes that are provided by or received in a CAT Reporter's order/quote handling or execution systems in Eligible Securities that are options and are provided by an Industry Member to other market participants off a national securities exchange under the following conditions: a listed option bid or offer which is accessible electronically by customers or other market participants and is immediately actionable (*i.e.,* no further action is required by the responder providing the quote in order to execute or cause a trade to be executed). Accordingly, any response to a request for quote or other form of solicitation response provided in standard electronic format (*e.g.,* FIX) that meets this definition is reportable in Phase 2d for options.[116]

Phase 2d Industry Member Data also includes with respect to Eligible Securities that are options or equities (1) receipt time of cancellation and modification instructions through Order Cancel Request and Order Modification Request events; (2) modifications of previously routed orders in certain instances; and (3) OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter that does not match and execute orders. In addition, subject to any exemptive or other relief, Phase 2d Industry Member Data will include verbal or manual quotes on an exchange floor or in the over-the-

[112] *Id.*

[113] Securities Exchange Act Rel. No. 92239 (June 23, 2021), 86 FR 34293 (June 29, 2021).

[114] Phase Reporting Exemptive Relief Order at 23078–79.

[115] *Id.* at 23079.

[116] *Id.*

counter market, where verbal quotes and manual quotes are defined as bids or offers in Eligible Securities provided verbally or that are provided or received other than via a CAT Reporter's order handling and execution system (*e.g.,* quotations provided via email or instant messaging).[117]

The Quarterly Progress Report for the fourth quarter of 2021 states that ''Phase 2a was fully implemented as of October 26, 2020;'' ''Phase 2b was fully implemented as of January 4, 2021;'' ''Phase 2c was implemented as of April 26, 2021;'' and ''Phase 2d was fully implemented as of December 13, 2021.'' [118] The Quarterly Progress Reports for 2021 provide additional detail regarding the implementation of these steps including the following:

- ''Production Go-Live for Equities 2c reporting requirements (Large Industry Members)'' was completed on April 26, 2021;
- ''LTID Account Information Reporting Go-Live for Phases 2a, 2b and 2c (Large Industry Members)'' was completed on April 26, 2021;
- ''FCAT Plan Processor creates linkages of the lifecycle of order events based on the received data through Phase 2d Production Go-Live for Options 2d reporting requirements (Large Industry Members)'' was completed on December 13, 2021;
- ''Production Go-Live for Options 2d reporting requirements (Large Industry Members)'' was completed on December 13, 2021;
- ''Production Go-Live for Options 2b reporting requirements (Small OATS Reporters and Small Non-OATS Reporters)'' was completed on December 13, 2021;
- ''Production Go-Live for Equities 2c reporting requirements (Small OATS Reporters and Small Non-OATS Reporters)'' was completed on December 13, 2021;
- ''Production Go-Live for Options 2d reporting requirements (Small OATS Reporters and Small Non-OATS Reporters)'' was completed on December 13, 2021;
- ''LTID Account Information Reporting Go-Live for Phases 2d (Large Industry Members)'' was completed on December 13, 2021; and
- ''LTID Account Information Reporting Go-Live for Phases 2a, 2b, 2c and 2d (Small Industry Members)'' was completed on December 13, 2021.[119]

The third prong of ''Full Availability and Regulatory Utilization of Transactional Database Functionality'' also imposes an Error Rate requirement of 5% or less. The Quarterly Progress Report for the fourth quarter of 2021 states the average overall error rate was less than 5% as of December 31, 2021. The average overall error rate was calculated by dividing the compliance errors by processed records.

The fourth prong of ''Full Availability and Regulatory Utilization of Transactional Database Functionality'' requires that the data collected by the CAT at this stage be made available to regulators through an online targeted query tool and a user-defined direct query tool. As CAT LLC reported on its Quarterly Progress Report for the fourth quarter of 2021, the query tool functionality incorporating the data from Phases 2a, 2b, 2c and 2d was available to the Participants and to the Commission as of December 31, 2021.[120]

The fifth prong requires the requirements of Section 6.10(a) of the CAT NMS Plan to have been met. Section 6.10(a) of the CAT NMS Plan requires the Participants to use the tools described in Appendix D to ''develop and implement a surveillance system, or enhance existing surveillance systems, reasonably designed to make use of the consolidated information contained in the Central Repository.'' The Exchange implemented a surveillance system, or enhanced existing surveillance systems, reasonably designed to make use of the consolidated information contained in the Central Repository as of December 31, 2021 in accordance with Section 6.10(a) of the CAT NMS Plan.[121]

The Commission has determined that the Participants have sufficiently complied with the conditions set forth in the 2020 Orders and with the technical requirements for Quarterly Progress Reports set forth in Section 6.6(c) of the CAT NMS Plan for purposes of determining compliance with this FAM.[122]

As discussed above, Historical CAT Costs 1 to be recovered via Historical CAT Assessment 1 would include fees, costs and expenses incurred by or for the Company in connection with the development, implementation and operation of the CAT during the period from January 1, 2021 through December 31, 2021. The total costs for this period, as discussed above, are $144,415,268. Participants would remain responsible for one-third of this cost (which they have previously paid), and Industry Members would be responsible for the remain two-thirds, with CEBBs paying one-third ($48,138,422.70) and CBSs paying one-third ($48,138,422.70).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of the Exchange Act. The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[123] which requires, among other things, that the Exchange's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealers. The Exchange also believes that the proposed rule change is consistent with the provisions of Section 6(b)(4) of the Act,[124] because it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The Exchange further believes that the proposed rule change is consistent with Section 6(b)(8) of the Act,[125] which requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act. These provisions also require that the Exchange be ''so organized and [have] the capacity to be able to carry out the purposes'' of the Act and ''to comply, and . . . to enforce compliance by its members and persons associated with its members,'' with the provisions of the Exchange Act.[126] Accordingly, a reasonable reading of the Act indicates that it intended that regulatory funding be sufficient to permit an exchange to fulfill its statutory responsibility under the Act, and contemplated that such funding would be achieved through equitable assessments on the members, issuers, and other users of an exchange's facilities.

The Exchange believes that this proposal is consistent with the Act because it implements provisions of the Plan and is designed to assist the

[117] *Id.* at 23079–80.

[118] *See* Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

[119] *See* Q2 2021 Quarterly Progress Report (July 27, 2021); and Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

[120] *See* Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

[121] *See* Q1 2021 Quarterly Progress Report (April 30, 2021); Q2 2021 Quarterly Progress Report (July 27, 2021); Q3 2021 Quarterly Progress Report (Nov. 1, 2021); Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

[122] Settlement Exemptive Order at 77129 n.13.

[123] 15 U.S.C. 78f(b)(6).

[124] 15 U.S.C. 78f(b)(4).

[125] 15 U.S.C. 78f(b)(8).

[126] *See* Section 6(b)(1) of the Exchange Act.

Exchange in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [127] To the extent that this proposal implements the Plan and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

The Exchange believes that the proposed fees paid by the CEBBs and CEBSs are reasonable, equitably allocated and not unfairly discriminatory. First, the Historical CAT Assessment 1 fees to be collected are directly associated with the costs of establishing and maintaining the CAT, where such costs include Plan Processor costs and costs related to technology, legal, consulting, insurance, professional and administration, and public relations costs. The Exchange has already incurred such development and implementation costs and the proposed Historical CAT Assessment 1 fees, therefore, would allow the Exchange to collect certain of such costs in a fair and reasonable manner from Industry Members, as contemplated by the CAT NMS Plan.

The proposed Historical CAT Assessment 1 fees would be charged to Industry Members in support of the maintenance of a consolidated audit trail for regulatory purposes. The proposed fees, therefore, are consistent with the Commission's view that regulatory fees be used for regulatory purposes and not to support the Exchange's business operations. The proposed fees would not cover Exchange services unrelated to the CAT. In addition, any surplus would be used as a reserve to offset future fees. Given the direct relationship between CAT fees and CAT costs, the Exchange believes that the proposed fees are reasonable, equitable and not unfairly discriminatory.

As further discussed below, the SEC approved the CAT Funding Model, finding it was reasonable and that it equitably allocates fees among Participants and Industry Members. The Exchange believes that the proposed fees adopted pursuant to the CAT Funding Model approved by the SEC are reasonable, equitably allocated and not unfairly discriminatory.

(1) Implementation of CAT Funding Model in CAT NMS Plan

Section 11.1(b) of the CAT NMS Plan states that ''[t]he Participants shall file with the SEC under Section 19(b) of the Exchange Act any such fees on Industry Members that the Operating Committee approves.'' Per Section 11.1(b) of the CAT NMS Plan, the Exchange has filed this fee filing to implement the Industry Member CAT fees included in the CAT Funding Model. The Exchange believes that this proposal is consistent with the Exchange Act because it is consistent with, and implements, the CAT Funding Model in the CAT NMS Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the CAT NMS Plan. In approving the CAT NMS Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [128] Similarly, in approving the CAT Funding Model, the SEC concluded that the CAT Funding Model met this standard.[129] As this proposal implements the Plan and the CAT Funding Model described therein, and applies specific requirements to Industry Members in compliance with the Plan, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Exchange Act.

(2) Calculation of Fee Rate for Historical CAT Assessment 1 Is Reasonable

The SEC has determined that the CAT Funding Model is reasonable and satisfies the requirements of the Exchange Act. Specifically, the SEC has concluded that the method for determining Historical CAT Assessments as set forth in Section 11.3 of the CAT NMS Plan, including the formula for calculating the Historical Fee Rate, the identification of the parties responsible for payment and the transactions subject to the fee rate for the Historical CAT Assessment, is reasonable and satisfies the Exchange Act.[130] In each respect, as discussed above, Historical CAT Assessment 1 is calculated, and would be applied, in accordance with the requirements applicable to Historical CAT Assessments as set forth in the CAT NMS Plan. Furthermore, as discussed below, the Exchange believes that each of the figures for the variables in the SEC-approved formula for calculating the fee rate for Historical CAT Assessment 1 is reasonable and consistent with the Exchange Act. Calculation of the Historical Fee Rate for Historical CAT Assessment 1 requires the figures for the Historical CAT Costs 1, the executed equivalent share volume for the prior twelve months, the determination of Historical Recovery Period 1, and the projection of the executed equivalent share volume for Historical Recovery Period 1. Each of these variables is reasonable and satisfies the Exchange Act, as discussed throughout this filing.

(A) Historical CAT Costs 1

The formula for calculating a Historical Fee Rate requires the amount of Historical CAT Costs to be recovered. Specifically, Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan requires a fee filing to provide:

> a brief description of the amount and type of the Historical CAT Costs, including (1) the technology line items of cloud hosting services, operating fees, CAIS operating fees, change request fees, and capitalized developed technology costs, (2) legal, (3) consulting, (4) insurance, (5) professional and administration and (6) public relations costs.

In accordance with this requirement, the Exchange has set forth the amount and type of Historical CAT Costs 1 for each of these categories of costs above.

Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan also requires that the fee filing provide ''sufficient detail to demonstrate that the Historical CAT Costs are reasonable and appropriate.'' As discussed below, the Exchange believes that the amounts set forth in this filing for each of these cost categories is ''reasonable and appropriate.'' Each of the costs included in Historical CAT Costs 1 are reasonable and appropriate because the costs are consistent with standard industry practice, based on the need to comply with the requirements of the CAT NMS Plan, incurred subject to negotiations performed on an arm's length basis, and/or are consistent with the needs of any legal entity, particularly one with no employees.

(i) Technology: Cloud Hosting Services

In approving the CAT Funding Model, the Commission recognized that it is appropriate to recover costs related to cloud hosting services as a part of

[127] CAT NMS Plan Approval Order at 84697.

[128] CAT NMS Plan Approval Order at 84696.

[129] CAT Funding Model Approval Order at 62686.

[130] *Id.* at 62662–63.

Historical CAT Assessments.[131] CAT LLC determined that the costs related to cloud hosting services described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. As described above, the cloud hosting services costs reflect, among other things, the breadth of the CAT cloud activities, data volume far in excess of the original volume estimates, the need for specialized cloud services given the volume and unique nature of the CAT, the processing time requirements of the Plan, and regular efforts to seek to minimize costs where permissible under the Plan. CAT LLC determined that use of cloud hosting services is necessary for implementation of the CAT, particularly given the substantial data volumes associated with the CAT, and that the fees for cloud hosting services negotiated by FCAT were reasonable, taking into consideration a variety of factors, including the expected volume of data and the breadth of services provided and market rates for similar services.[132] Indeed, the actual costs of the CAT are far in excess of the original estimated costs of the CAT due to various factors, including the higher volumes and greater complexity of the CAT than anticipated when Rule 613 was originally adopted.

To comply with the requirements of the Plan, the breadth of the cloud activities related to the CAT is substantial. The cloud services not only include the production environment for the CAT, but they also include two industry testing environments, support environments for quality assurance and stress testing and disaster recovery capabilities. Moreover, the cloud storage costs are driven by the requirements of the Plan, which requires the storage of multiple versions of the data, from the original submitted version of the data through various processing steps, to the final version of the data.

Data volume is a significant driver of costs for cloud hosting services. When the Commission adopted the CAT NMS Plan in 2016, it estimated that the CAT would need to receive 58 billion records per day [133] and that annual operating costs for the CAT would range from $36.5 million to $55 million.[134] Through 2021, the actual data volumes have been five times that original estimate. The data volumes for each period are set forth in detail above.[135]

In addition to the effect of the data volume on the cloud hosting costs, the processing timelines set forth in the Plan contribute to the cloud hosting costs. Although CAT LLC has proactively sought to manage cloud hosting costs while complying with the Plan, including through requests to the Commission for exemptive relief and an amendment to the CAT NMS Plan, stringent CAT NMS Plan requirements do not allow for any material flexibility in cloud architecture design choices, processing timelines (*e.g.,* the use of non-peak processing windows), or lower-cost storage tiers. As a result, the required CAT processing timelines contribute to the cloud hosting costs of the CAT.

The costs for cloud hosting services also reflect the need for specialized cloud hosting services given the data volume and unique processing needs of the CAT. The data volume as well as the data processing needs of the CAT necessitate the use of cloud hosting services. The equipment, power and services required for an on-premises data model, the alternative to cloud hosting services, would be cost prohibitive. Moreover, as CAT was being developed, there were limited cloud hosting providers that could satisfy all the necessary CAT requirements, including the operational and security criteria. Over time more providers offering cloud hosting services that would satisfy these criteria have entered the market. CAT LLC will continue to evaluate alternative cloud hosting services, recognizing that the time and cost to move to an alternative cloud provider would be substantial.

The reasonableness of the cloud hosting services costs is further supported by key cost discipline mechanisms for the CAT—a cost-based funding structure, cost transparency, cost management efforts (including regular efforts to lower compute and storage costs where permitted by the Plan) and oversight. Together, these mechanisms help ensure the ongoing reasonableness of the CAT's costs and the level of fees assessed to support those costs.[136]

(ii) Technology: Operating Fees

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to operating fees as a part of Historical CAT Assessments.[137] CAT LLC determined that the costs related to operating fees described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. The operating fees include the negotiated fees paid by CAT LLC to the Plan Processor to operate and maintain the system for order-related information and to perform business operations related to the system, including compliance, security, testing, training, communications with the industry (*e.g.,* management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management. CAT LLC determined that the selection of FCAT as the Plan Processor was reasonable and appropriate given its expertise with securities regulatory reporting, after a process of considering other potential candidates.[138] CAT LLC also determined that the fixed price contract, negotiated on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan and Rule 613, was reasonable and appropriate, taking into consideration a variety of factors, including the breadth of services provided and market rates for similar types of activity.[139] The services performed by FCAT for each period and the costs related to such services are described above.[140]

(iii) Technology: CAIS Operating Fees

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to CAIS operating fees as a part of Historical CAT Assessments.[141] CAT LLC determined that the costs related to CAIS operating fees described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. The CAIS operating fees include the fees paid to the Plan Processor to operate and maintain CAIS and to perform the business operations related to the system, including compliance, security, testing, training, communications with the industry (*e.g.,* management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management. CAT LLC determined that the FCAT-negotiated fees for Kingland's CAIS-related services, negotiated on an arm's length basis with the goals of managing costs

[131] Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

[132] For a discussion of the amount and type of cloud hosting services fees, *see* Sections 3(a)(2)(B)(i)(a), 3(a)(2)(B)(ii)(a), 3(a)(2)(B)(iii)(a) and 3(a)(2)(B)(iv)(A) above.

[133] Appendix D–4 of the CAT NMS Plan at n.262.

[134] CAT NMS Plan Approval Order at 84801.

[135] *See* Sections 3(a)(2)(B)(i)(a), 3(a)(2)(B)(ii)(a), 3(a)(2)(B)(iii)(a) and 3(a)(2)(B)(iv)(A) above.

[136] *See* Securities Exchange Act Rel. No. 97151 (Mar. 15, 2023), 88 FR 17086, 17117 (Mar. 21, 2023) (describing key cost discipline mechanisms for the CAT).

[137] Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

[138] *See* Section 3(a)(2)(B)(i)(b) above.

[139] *See* Sections 3(a)(2)(B)(i)(b), 3(a)(2)(B)(ii)(b), 3(a)(2)(B)(iii)(b) and 3(a)(2)(B)(iv)(b) above.

[140] *Id.*

[141] Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

and receiving services required to comply with the CAT NMS Plan, taking into consideration a variety of factors, including the services to be provided and market rates for similar types of activity, were reasonable and appropriate.[142] The services performed by Kingland for each period and the costs for each period are described above.[143]

(iv) Technology: Change Request Fees

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to change request fees as a part of Historical CAT Assessments.[144] CAT LLC determined that the costs related to change request fees described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. It is common practice to utilize a change request process to address evolving needs in technology projects. This is particularly true for a project like CAT that is the first of its kind, both in substance and in scale. The substance and costs of each of the change requests are evaluated by the Operating Committee, and approved in accordance with the requirements for Operating Committee meetings. In each case, CAT LLC determined that the change requests were necessary to implement the CAT. As described above, the change requests cover various technology changes, including, for example, changes related to CAT reporting, data feeds and exchange functionality. CAT LLC also determined that the costs for each change request were appropriate for the relevant technology change. A description of the change requests for each FAM Period and their total costs are set described above.[145] As noted above, the total costs for change requests through FAM Period 3 represent a small percentage of Historical CAT Costs 1—that is, 0.25% of Historical CAT Costs 1.

(v) Capitalized Developed Technology Costs

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to capitalized developed technology costs as a part of Historical CAT Assessments.[146] Capitalized developed technology costs include costs related to certain development costs, costs related to certain modifications, upgrades and other changes to the CAT, CAIS implementation fees and license fees. The amount and type of costs for each period are described in more detail above.[147] CAT LLC determined that these costs are reasonable and should be included as a part of Historical CAT Costs 1.

These costs involve the activity of both the Initial Plan Processor and FCAT, as the successor Plan Processor.[148] With regard to the Initial Plan Processor, the Participants utilized an RFP to seek proposals to build and operate the CAT, receiving a number of proposals in response to the RFP. The Participants carefully reviewed and considered each of the proposals, including holding in-person meetings with each of the Bidders. After several rounds of review, the Participants selected the Initial Plan Processor in accordance with the CAT NMS Plan. CAT LLC entered into an agreement with the Initial Plan Processor in which CAT LLC would pay the Initial Plan Processor a negotiated, fixed price fee.[149] In addition, as described above, CAT LLC determined that is was appropriate to enter into an agreement with FCAT as the successor Plan Processor.[150]

(vi) Legal

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to legal fees as a part of Historical CAT Assessments.[151] CAT LLC determined that the legal costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. Given the unique nature of the CAT, the number of parties involved with the CAT (including, for example, the SEC, Participants, Industry Members, and vendors) and the many regulatory issues associated with the CAT, the scope of the necessary legal services are substantial. CAT LLC determined that the scope of the legal services is necessary to implement and maintain the CAT and that the legal rates reflect the specialized services necessary for such a project. When hiring each law firm for a CAT project, CAT LLC interviewed multiple firms, and determined to hire each firm based on a variety of factors, including the relevant expertise and fees. In each case, CAT LLC determined that the hourly fee rates were in line with market rates for the specialized legal expertise. In addition, CAT LLC determined that the total costs incurred for each CAT project were appropriate given the breadth of services provided. The services performed by each law firm for each period and the costs related to such services are described above.[152]

(vii) Consulting

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover consulting costs as a part of Historical CAT Assessments.[153] CAT LLC determined that the consulting costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. Because there are no CAT employees [154] and because of the significant number of issues associated with the CAT, the consultants provided assistance in the management of various CAT matters and the processes related to such matters.[155] CAT LLC considered a variety of factors in choosing a consulting firm and determined to select Deloitte after an interview process.[156] CAT LLC also determined that the consulting services were provided at reasonable market rates, as the fees were negotiated annually and comparable to the rates charged by other consulting firms for similar work.[157] Moreover, the total costs for such consulting services were appropriate in light of the breadth of services provided by Deloitte. The services performed by Deloitte and the costs related to such services are described above.[158]

(viii) Insurance

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover insurance costs as a part of Historical CAT Assessments.[159] CAT LLC determined that the insurance costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. CAT LLC determined that it is common practice

[142] *See* Sections 3(a)(2)(B)(i)(c), 3(a)(2)(B)(ii)(c), 3(a)(2)(B)(iii)(c) and 3(a)(2)(B)(iv)(c) above.

[143] *Id.*

[144] Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

[145] *See* Sections 3(a)(2)(B)(i)(d), 3(a)(2)(B)(ii)(d), 3(a)(2)(B)(iii)(d) and 3(a)(2)(B)(iv)(d) above.

[146] Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

[147] *See* Sections 3(a)(2)(B)(i)(e), 3(a)(2)(B)(ii)(e), 3(a)(2)(B)(iii)(e) and 3(a)(2)(B)(iv)(e) above.

[148] *Id.*

[149] *See* Section 3(a)(2)(B)(i)(e) above.

[150] *See* Section 3(a)(2)(B)(i)(b) above.

[151] Section 11.3(b)(iii)(B)(II)(B)(2) of the CAT NMS Plan.

[152] *See* Sections 3(a)(2)(B)(i)(f), 3(a)(2)(B)(ii)(f), 3(a)(2)(B)(iii)(f) and 3(a)(2)(B)(iv)(f) above.

[153] Section 11.3(b)(iii)(B)(II)(B)(3) of the CAT NMS Plan.

[154] As stated in the filing of the proposed CAT NMS Plan, ''[i]t is the intent of the Participants that the Company have no employees.'' Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614, 30621 (May 17, 2016).

[155] CAT LLC uses certain third parties to perform tasks that may be performed by administrators for other NMS Plans. *See, e.g.,* CTA Plan and CQ Plan.

[156] *See* Section 3(a)(2)(B)(i)(g) above.

[157] *See* Sections 3(a)(2)(B)(i)(g), 3(a)(2)(B)(ii)(g), 3(a)(2)(B)(iii)(g) and 3(a)(2)(B)(iv)(g) above.

[158] *Id.*

[159] Section 11.3(b)(iii)(B)(II)(B)(4) of the CAT NMS Plan.

to have directors' and officers' liability insurance, and errors and omissions liability insurance. CAT LLC further determined that it was important to have cyber security insurance given the nature of the CAT, and such a decision is consistent with the CAT NMS Plan, which states that the cyber incident response plan may include ''[i]nsurance against security breaches.'' [160] In selecting the insurance providers for these policies, CAT LLC engaged in an evaluation of alternative insurers, including a comparison of the pricing offered by the alternative insurers.[161] Based on this analysis, CAT LLC determined that the selected insurance policies provided appropriate coverage at reasonable market rates.[162]

(ix) Professional and Administration

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover professional and administration costs as a part of Historical CAT Assessments.[163] CAT LLC determined that the professional and administration costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. Because there are no CAT employees, all required accounting, financial, tax, cash management and treasury functions for CAT LLC have been outsourced at market rates. In addition, the required annual financial statement audit of CAT LLC is included in professional and administration costs, which costs are also at market rates.

CAT LLC determined to hire a financial advisory firm, Anchin, to assist with financial matters for the CAT. CAT LLC interviewed Anchin as well as other potential financial advisory firms to assist with the CAT project, considering a variety of factors in its analysis, including the firm's relevant expertise and fees.[164] The hourly fee rates for this firm were in line with market rates for the financial advisory services provided.[165] Moreover, the total costs for such financial advisory services was appropriate in light of the breadth of services provided by Anchin. The services performed by Anchin and the costs related to such services are described above.[166]

CAT LLC also determined to engage an independent accounting firm, Grant Thornton, to complete the audit of CAT LLC's financial statements, in accordance with the requirements of the CAT NMS Plan. CAT LLC interviewed this firm as well as another potential accounting firm to audit CAT LLC's financial statements, considering a variety of factors in its analysis, including the relevant expertise and fees of each of the firms. CAT LLC determined that Grant Thornton was well-qualified for the role given the balanace of these considerations.[167] Grant Thornton's fixed fee rate compensation arrangement was reasonable and appropriate, and in line with the market rates charged for these types of accounting services.[168] Moreover, the total costs for such financial advisory services was appropriate in light of the breadth of services provided by Grant Thornton. The services performed by Grant Thornton and the costs related to such services are described above.[169]

The professional and administrative costs also include costs related to the receipt of certain market data from Exegy. After performing an analysis of the available market data vendors to confirm that the data provided met the SIP Data requirements of the CAT NMS Plan and comparing the costs of the vendors providing the required SIP Data, CAT LLC determined to purchase market data from Exegy. Exegy provided the data elements required by the CAT NMS Plan, and the fees were reasonable and in line with market rates for the market data received.[170]

The professional and administrative costs also include costs related to a third party security assessment of the CAT performed by RSM. The assessment was designed to verify and validate the effective design, implementation and operation of the controls specified by NIST Special Publication 800–53, Revision 4 and related standards and guidelines. Such a security assessment is in line with industry practice and important given the data included in the CAT. CAT LLC determined to engage RSM to perform the security assessment, after considering a variety of factors in its analysis, including the firm's relevant expertise and fees. The fees were reasonable and in line with market rates for such an assessment.[171]

(x) Public Relations Costs

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover public relations costs as a part of Historical CAT Assessments.[172] CAT LLC determined that the public relations costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. CAT LLC determined that the types of public relations services utilized were beneficial to the CAT and market participants more generally. Public relations services were important for various reasons, including monitoring comments made by market participants about CAT and understanding issues related to the CAT discussed on the public record.[173] By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT issues to the benefit of all market participants.[174] Moreover, CAT LLC determined that the rates charged for such services were in line with market rates.[175] As noted above, the total public relations costs through FAM Period 3 represent a small percentage of Historical CAT Costs 1—that is, 0.1% of Historical CAT Costs 1.

(B) Total Executed Equivalent Share Volume for the Prior 12 Months

The total executed equivalent share volume of transactions in Eligible Securities for the period from December 2022 through November 2023 was 3,842,861,347,279.44 executed equivalent shares. CAT LLC determined the total executed equivalent share volume for the prior twelve months by counting executed equivalent shares in the same manner as it will count executed equivalent shares for CAT billing purposes.

(C) Historical Recovery Period 1

CAT LLC has determined to establish a Historical Recovery Period of 24 months for Historical CAT Assessment 1 and that such length is reasonable. CAT LLC determined that the length of Historical Recovery Period 1 appropriately weighs the need for a reasonable Historical Fee Rate 1 that spreads the Historical CAT Costs over an appropriate amount of time and the need to repay the loans notes to the Participants in a timely fashion. CAT

[160] Section 4.1.5 of Appendix D of the CAT NMS Plan.

[161] *See* Sections 3(a)(2)(B)(i)(h), 3(a)(2)(B)(ii)(h), 3(a)(2)(B)(iii)(h) and 3(a)(2)(B)(iv)(h) above.

[162] *Id.*

[163] Section 11.3(b)(iii)(B)(II)(B)(5) of the CAT NMS Plan.

[164] *See* Section 3(a)(2)(B)(i)(i) above.

[165] *See* Sections 3(a)(2)(B)(i)(i), 3(a)(2)(B)(ii)(i), 3(a)(2)(B)(iii)(i) and 3(a)(2)(B)(iv)(i) above.

[166] *Id.*

[167] *See* Section 3(a)(2)(B)(i)(i) above.

[168] *See* Sections 3(a)(2)(B)(i)(i), 3(a)(2)(B)(ii)(i), 3(a)(2)(B)(iii)(i) and 3(a)(2)(B)(iv)(i) above.

[169] *Id.*

[170] *See* Section 3(a)(2)(B)(i)(i) above.

[171] *Id.*

[172] Section 11.3(b)(iii)(B)(II)(B)(6) of the CAT NMS Plan.

[173] *See* Section 3(a)(2)(B)(i)(j) above.

[174] *See* Sections 3(a)(2)(B)(i)(j), 3(a)(2)(B)(ii)(j), 3(a)(2)(B)(iii)(j) and 3(a)(2)(B)(iv)(j) above.

[175] *Id.*

LLC determined that 24 months for Historical Recovery Period 1 would establish a fee rate that is lower than other transaction-based fees, including fees assessed pursuant to Section 31.[176] In addition, in establishing a Historical Recovery Period of 24 months, CAT LLC recognized that the total costs for Historical CAT Assessment 1 was less than the total costs for 2022 and 2023, and therefore it would be appropriate to recover those costs in two years. Furthermore, CAT LLC notes 24 months is appropriate because it is not currently proposing that Industry Members be required to pay another Historical CAT Assessment or CAT Fee with regard to Prospective CAT Costs at the same time.

(D) Projected Executed Equivalent Share Volume for Historical Recovery Period 1

CAT LLC has determined to calculate the projected total executed equivalent share volume for the 24 months of Historical Recovery Period 1 by doubling the executed equivalent share volume for the prior 12 months. CAT LLC determined that such an approach was reasonable as the CAT's annual executed equivalent share volume has remained relatively constant in recent years. For example, the executed equivalent share volume for 2021 was 3,963,697,612,395 executed equivalent shares, and the executed equivalent share volume for 2022 was 4,039,821,841,560.31 executed equivalent shares. Accordingly, the projected total executed equivalent share volume for Historical Recovery Period 1 is 7,685,722,694,558.88 executed equivalent shares.[177]

(E) Actual Fee Rate for Historical CAT Assessment 1

(i) Decimal Places

As noted in the Plan amendment for the CAT Funding Model, as a practical matter, the fee filing for a Historical CAT Assessment would provide the exact fee per executed equivalent share to be paid for each Historical CAT Assessment, by multiplying the Historical Fee Rate by one-third and describing the relevant number of decimal places for the fee rate.[178] Accordingly, proposed paragraph (a)(1)(B) of the fee schedule would set forth a fee rate of $0.000015 per executed equivalent share. This fee rate is calculated by multiplying Historical Fee Rate 1 by one-third, and rounding the result to 6 decimal places. CAT LLC determined that the use of six decimal places is reasonable as it balances the accuracy of the calculation with the potential systems and other impracticalities of using additional decimal places in the calculation.

(ii) Reasonable Fee Level

The Exchange believes that imposing Historical CAT Assessment 1 with a fee rate of $0.000015 per executed equivalent share is reasonable because it provides for a revenue stream for the Company that is aligned with Historical CAT Costs 1 and such costs would be spread out over an appropriate recovery period, as discussed above. Moreover, the Exchange believes that the level of the fee rate is reasonable, as it is comparable to other transaction-based fees. Indeed, Historical CAT Assessment 1 is significantly lower than fees assessed pursuant to Section 31 (*e.g.,* $0.0009 per share to 0.0004 per share),[179] and, as a result, the magnitude of Historical CAT Assessment 1 is small, and therefore will mitigate any potential adverse economic effects or inefficiencies.[180] Furthermore, the reasonable fee rate for Historical CAT Assessment 1 further supports CAT LLC's decision to seek to recover all Historical CAT Costs prior to 2022, rather than establishing separate Historical CAT Assessments for pre-FAM, FAM 1, FAM 2 and FAM 3 costs.

(3) Historical CAT Assessment 1 Provides for an Equitable Allocation of Fees

Historical CAT Assessment 1 provides for an equitable allocation of fees, as it equitably allocates CAT costs between and among the Participants and Industry Members. The SEC approved the CAT Funding Model, finding that each aspect of the CAT Funding Model satisfied the requirements of the Exchange Act, including the formula for calculating Historical CAT Assessments as well as the Industry Members to be charged the Historical CAT Assessments.[181] In approving the CAT Funding Model, the SEC stated that ''[t]he Participants have sufficiently demonstrated that the proposed allocation of fees is reasonable.'' [182] Accordingly, the CAT Funding Model sets forth the requirements for allocating fees related to Historical CAT Costs among Participants and Industry Members, and the fee filings for Historical CAT Assessments must comply with those requirements.

Historical CAT Assessment 1 provides for an equitable allocation of fees as it complies with the requirements regarding the calculation of Historical CAT Assessments as set forth in the CAT NMS Plan. For example, as described above, the calculation of Historical CAT Assessment 1 complies with the formula set forth in Section 11.3(b) of the CAT NMS Plan. In addition, Historical CAT Assessment 1 would be charged to CEBBs and CEBSs in accordance with Section 11.3(b) of the CAT NMS Plan. Furthermore, the Participants would continue to remain responsible for their designated share of Past CAT Costs through the cancellation of loans made by the Participants to CAT LLC.

In addition, as discussed above, each of the inputs into the calculation of Historical CAT Assessment 1—Historical CAT Costs 1 (including Excluded Costs), the count for the executed equivalent share volume for the prior 12 months, the length of the Historical Recovery Period, and the projected executed equivalent share volume for the Historical Recovery Period—are reasonable. Moreover, these inputs lead to a reasonable fee rate for Historical CAT Assessment 1 that is lower than other fee rates for transaction-based fees. A reasonable fee rate allocated in accordance with the requirements of the CAT Funding Model provides for an equitable allocation of fees.

(4) Historical CAT Assessment 1 Is Not Unfairly Discriminatory

Historical CAT Assessment 1 is not an unfairly discriminatory fee. The SEC approved the CAT Funding Model, finding that each aspect of the CAT Funding Model satisfied the requirements of the Exchange Act. In reaching this conclusion, the SEC analyzed the potential effect of Historical CAT Assessments calculated pursuant to the CAT Funding Model on affected categories of market participants, including Participants (including exchanges and FINRA), Industry Members (including subcategories of Industry Members, such as alternative trading systems, CAT Executing Brokers and market makers), and investors generally, and considered market effects related to equities and options, among other things. Historical CAT Assessment 1 complies with the requirements regarding the calculation of Historical CAT Assessments as set forth in the CAT NMS Plan. In addition,

[176] As the SEC noted in the CAT Funding Model Approval Order, recent Section 31 fees ranged from $0.00009 per share to $0.0004 per share. CAT Funding Model Approval Order at 62682.

[177] This projection was calculated by multiplying 3,842,861,347,279.44 executed equivalent shares by two.

[178] CAT Funding Model Approval Order at 62658, n.658.

[179] CAT Funding Model Approval Order at 62663, 62682.

[180] *Id.*

[181] *See* Section 11.3(b) of the CAT NMS Plan.

[182] CAT Funding Model Approval Order at 62629.

as discussed above, each of the inputs into the calculation of Historical CAT Assessment 1 and the resulting fee rate for Historical CAT Assessment 1 is reasonable. Therefore, Historical CAT Assessment 1 does not impose an unfairly discriminatory fee on Industry Members.

Finally, the Exchange believes the proposed fees established pursuant to the CAT Funding Model promote just and equitable principles of trade, and, in general, protect investors and the public interest, and are provided in a transparent manner and specificity in the fee schedule. The Exchange also believes that the proposed fees are reasonable because they would provide ease of calculation, ease of billing and other administrative functions, and predictability of a fee based on fixed rate per executed equivalent share. Such factors are crucial to estimating a reliable revenue stream for CAT LLC and for permitting Exchange members to reasonably predict their payment obligations for budgeting purposes.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act [183] requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act. The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that Historical CAT Assessment 1 implements provisions of the CAT NMS Plan that were approved by the Commission and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan.

In addition, all Participants (including exchanges and FINRA) are proposing to introduce Historical CAT Assessment 1 on behalf of CAT LLC to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive fee filing, and, therefore, it does not raise competition issues between and among the Participants.

Furthermore, in approving the CAT Funding Model, the SEC analyzed the potential competitive impact of the CAT Funding Model, including competitive issues related to market services, trading services and regulatory services, efficiency concerns, and capital formation.[184] The SEC also analyzed the potential effect of CAT fees calculated pursuant to the CAT Funding Model on affected categories of market participants, including Participants (including exchanges and FINRA), Industry Members (including subcategories of Industry Members, such as alternative trading systems, CAT Executing Brokers and market makers), and investors generally, and considered market effects related to equities and options, among other things. Based on this analysis, the SEC approved the CAT Funding Model as compliant with the Exchange Act. Historical CAT Assessment 1 is calculated and implemented in accordance with the CAT Funding Model as approved by the SEC.

As discussed above, each of the inputs into the calculation of Historical CAT Assessment 1 is reasonable and the resulting fee rate for Historical CAT Assessment 1 calculated in accordance with the CAT Funding Model is reasonable. Therefore, Historical CAT Assessment 1 would not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Not applicable.

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 [185] and Rule 19b–4(f)(2) [186] 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–2023–40 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–2023–40. 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–2023–40 and should be submitted on or before January 29, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[187]

Christina Z. Milnor,

Assistant Secretary.

[FR Doc. 2023–29007 Filed 1–5–24; 8:45 am]

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[183] 15 U.S.C. 78f(b)(8).

[184] CAT Funding Model Approval Order at 62676–86.

[185] 15 U.S.C. 78s(b)(3)(A)(ii).

[186] 17 CFR 240.19b–4(f)(2).

[187] 17 CFR 200.30–3(a)(12).

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