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Presidential Documents

Title 3—

The President

Memorandum of February 14, 2024

Deferred Enforced Departure for Certain Palestinians

Memorandum for the Secretary of State [and] the Secretary of Homeland Security

Following the horrific October 7, 2023, terrorist attack by Hamas against Israel, and Israel's ensuing military response, humanitarian conditions in the Palestinian territories, and primarily Gaza, have significantly deteriorated. While I remain focused on improving the humanitarian situation, many civilians remain in danger; therefore, I am directing the deferral of removal of certain Palestinians who are present in the United States.

Pursuant to my constitutional authority to conduct the foreign relations of the United States, I have determined that it is in the foreign policy interest of the United States to defer for 18 months the removal of any Palestinian subject to the conditions and exceptions provided below.

Accordingly, I hereby direct the Secretary of Homeland Security to take appropriate measures to defer for 18 months the removal of any Palestinian who is present in the United States on the date of this memorandum, except for those:

(1) who have voluntarily returned to the Palestinian territories after the date of this memorandum;

(2) who have not continuously resided in the United States since the date of this memorandum;

(3) who are inadmissible under section 212(a)(3) of the Immigration and Nationality Act (INA) (8 U.S.C. 1182(a)(3)) or deportable under section 237(a)(4) of the INA (8 U.S.C. 1227(a)(4));

(4) who have been convicted of any felony or two or more misdemeanors committed in the United States, or who meet any of the criteria set forth in section 208(b)(2)(A) of the INA (8 U.S.C. 1158(b)(2)(A));

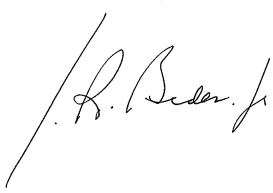
(5) who are subject to extradition;

(6) whose presence in the United States the Secretary of Homeland Security has determined is not in the interest of the United States or presents a danger to public safety; or

(7) whose presence in the United States the Secretary of State has reasonable grounds to believe would have potentially serious adverse foreign policy consequences for the United States.

I further direct the Secretary of Homeland Security to take appropriate measures to authorize employment for noncitizens whose removal has been deferred, as provided by this memorandum, for the duration of such deferral, and to consider suspending regulatory requirements with respect to F–1 nonimmigrant students who are Palestinians as the Secretary of Homeland Security determines to be appropriate.

The Secretary of Homeland Security is authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, February 14, 2024

[FR Doc. 2024–03514
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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.

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

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 390

[Docket Number FSIS–2019–0012]

RIN 0583–AD82

Privacy Act Exemption for AssuranceNet

AGENCY: Food Safety and Inspection Service (FSIS), U.S. Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: FSIS is amending its regulations to exempt certain records maintained by its AssuranceNet (ANet) system of records from the notification and access provisions of the Privacy Act of 1974 (Privacy Act). FSIS is taking this action because ANet contains information directly associated with investigations conducted by FSIS for law enforcement purposes.

DATES: *Effective date:* April 22, 2024.

FOR FURTHER INFORMATION CONTACT: Valerie Neris, AssuranceNet System Owner/Manager, Litigation and Enforcement Programs Staff, Office of Investigation, Enforcement and Audit; Telephone (202) 550–3562.

For Privacy Questions: Timothy Poe, Government Information Specialist/ Mission Area Privacy Officer, Freedom of Information Act Staff, Office of Public Affairs and Consumer Education; Telephone (202) 937–4207.

SUPPLEMENTARY INFORMATION: FSIS is the public health regulatory agency in the USDA that is responsible for ensuring that the nation's commercial supply of meat, poultry, and egg products is safe, wholesome, and accurately labeled. FSIS uses ANet, a management control and performance monitoring system that gathers information from electronic and paper-based sources, to track, measure, and monitor the performance of its and its state partners' critical public health functions and to alert FSIS management to areas of vulnerability or concern. ANet tracks, measures, and monitors the performance of the key public health functions of inspection, verification, surveillance, enforcement, and sampling by FSIS and state meat and poultry inspection program employees. The data and tools of ANet are used to analyze the effectiveness of policies and procedures in meeting public health goals and objectives and to help ensure that methods, evaluations, and enforcement are standardized and traceable nationwide. The Agency also uses data analysis in and through ANet to discern trends; to develop objectives for regulatory food safety functions; to identify and focus on areas of high-risk; and to help determine strategies to combat threats to food safety and defense.

On March 22, 2022, FSIS published a system of records notice (SORN) for USDA/FSIS–0005, ANet (87 FR 16163). In the same **Federal Register**, FSIS published a proposed rule to exempt certain investigatory records maintained by the ANet system of records from the notification and access provisions of the Privacy Act under 5 U.S.C. 552a(c)(3), (d)(1)–(4), (e)(1) (e)(4)(G)–(I), and (f) (87 FR 16105). FSIS explained in the proposed rule that ANet includes investigatory material compiled for law enforcement, which fall under the Privacy Act exemptions in 5 U.S.C. 552a(k). FSIS also explained that the proposed exemptions were necessary to protect information on the methods used in law enforcement activities from those individuals who are subjects to the investigation and the identities and physical safety of witnesses and others who aid in investigations. Moreover, FSIS explained that the exemptions would ensure FSIS' ability to obtain information from third parties and safeguard those investigatory records that are needed for litigation (87 FR 16105–16106).

The comment period for the proposed rule ended on April 21, 2022. After carefully considering the comments, discussed below, FSIS is finalizing the proposal without changes.

Summary of Comments and Responses

FSIS received two comments from individuals on the proposed rule.

Comment: One commenter asked if the exempted information in ANet will be made available once the investigation has ended.

Response: Investigative and law enforcement information in ANet may still be exempted from release after an investigation has concluded, because it may provide information on investigative methods and techniques, allow violators to revise their methods to go undetected to circumvent the law, or disclose confidential informants or sources. Whether certain information may be releasable after an investigation has ended will be addressed on a case-by-case basis, consistent with the Privacy Act and the Freedom of Information Act (5 U.S.C. 552).

Comment: The other commenter argued that FSIS should withdraw the proposal because the Agency did not define ''SORN'' in the proposed rule.

Response: FSIS is not withdrawing the proposal. On page 16105 of the proposed rule (87 FR 16105), the Agency explained that a SORN is a system of records notice that informs the public of the existence of a system of records and describes the type of information collected, why it is being collected, what it may be used for, when it may be disclosed to third parties, how it will be safeguarded, and how and when it will be destroyed.

Executive Orders 12866, as Amended by 14094, and 13563

Executive Orders (E.O.s) 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). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule has been designated as a ''non-significant'' regulatory action under section 3(f) of E.O. 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget (OMB) under E.O. 12866. While this final rule may benefit law enforcement efforts, FSIS does not anticipate quantifiable costs or benefits accruing from this rule.

Regulatory Flexibility Act

The FSIS Administrator certifies that, for the purposes of the Regulatory Flexibility Act (5 U.S.C. *et seq.*), this final rule will not have a significant

economic impact on a substantial number of small entities in the United States. This final rule is not expected to increase costs to industry.

Paperwork Reduction Act

There are no new paperwork or recordkeeping requirements associated with this final rule under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Executive Order 12988, Civil Justice Reform

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under this rule: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) no administrative proceedings will be required before parties may file suit in court challenging this rule.

Environmental Impact

Each USDA agency is required to comply with 7 CFR part 1b of the Departmental regulations, which supplements the National Environmental Policy Act regulations published by the Council on Environmental Quality. Under these regulations, actions of certain USDA agencies and agency units are categorically excluded from the preparation of an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) unless the agency head determines that an action may have a significant environmental effect (7 CFR 1b.4(b)). FSIS is among the agencies categorically excluded from the preparation of an EA or EIS (7 CFR 1b.4(b)(6)).

FSIS has determined that this final rule, which exempts certain records maintained by its ANet system of records from the notification and access provisions of the Privacy Act, will not create any extraordinary circumstances that will result in this normally excluded action having a significant effect on the human environment. Therefore, this action is appropriately subject to the categorical exclusion for FSIS programs and activities under 7 CFR 1b.4.

E-Government Act

FSIS and the USDA are committed to achieving the purposes of the E-Government Act (44 U.S.C. 3601 *et seq.*) by, among other things, promoting the use of the internet and other information technologies and providing increased opportunities for citizen access to Government information and services, and for other purposes.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication online through the FSIS web page located at: *https://www.fsis.usda.gov/federal-register.*

FSIS also will make copies of this publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Constituent Update is available on the FSIS web page. Through the web page, FSIS can provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *https://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of E.O. 13175, ''Consultation and Coordination with Indian Tribal Governments.'' E.O. 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that 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.

FSIS has assessed the impact of this rule on Indian tribes and determined that this rule does not, to our knowledge, have tribal implications that require tribal consultation under E.O. 13175. If a tribe requests consultation, FSIS will work with the Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions, and modifications identified herein are not expressly mandated by Congress.

USDA Non-Discrimination Statement

In accordance with Federal civil rights law and USDA civil rights regulations and policies, 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, or staff office; the USDA TARGET Center at (202) 720–2600 (voice and TTY); 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/forms/electronic-forms,* 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 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; (2) Fax: (833) 256–1665 or (202) 690–7442; or (3) Email: *program.intake@usda.gov.*

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List of Subjects in 9 CFR Part 390

Freedom of information, Privacy.

For the reasons stated in the preamble, FSIS amends 9 CFR part 390 as follows:

PART 390—FREEDOM OF INFORMATION AND PUBLIC INFORMATION

■ 1. The authority citation for part 390 is revised to read as follows:

Authority: 5 U.S.C. 301, 552, 552a; 21 U.S.C. 451–472, 601–695; 7 CFR 1.3, 2.7.

■ 2. Add § 390.11 to read as follows:

§ 390.11 FSIS systems of records exempt from the Privacy Act.

(a) USDA/FSIS–0005, AssuranceNet system of records, is exempt from subsections (c)(3), (d)(1)–(4), (e)(1), (e)(4)(G)–(I), and (f) of the Privacy Act, 5 U.S.C. 552a, to the extent it contains investigatory material compiled for law enforcement purposes in accordance with 5 U.S.C. 552a(k)(2). Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because the release of the disclosure accounting would permit the subject of an investigation to obtain valuable information concerning the nature of that investigation. This would permit record subjects to impede the investigation, *e.g.,* destroy evidence, intimidate potential witnesses, or flee the area to avoid inquiries or apprehension by law enforcement personnel.

(2) From subsection (d)(1) because the records contained in this system relate to official Federal investigations and matters of law enforcement. Individual access to these records might compromise ongoing or impending investigations, reveal confidential informants, or constitute unwarranted invasions of the personal privacy of third parties who are involved in a certain investigation.

(3) From section (d)(2) because amendment of the records would interfere with ongoing law enforcement proceedings and impose an impossible administrative burden by requiring investigations to be continuously reinvestigated.

(4) From subsections (d)(3) and (4) because these subsections are inapplicable to the extent exemption is claimed from subsections (d)(1) and (2).

(5) From subsection (e)(1) because it is often impossible to determine in advance if investigatory information contained in this system is accurate, relevant, timely and complete, but, in the interests of effective law enforcement, it is necessary to retain this information to aid in establishing patterns of activity and provide investigative leads. Moreover, it would impede the specific investigative process if it were necessary to assure the relevance, accuracy, timeliness, and completeness of all information obtained.

(6) From subsections (e)(4)(G) and (H) since an exemption being claimed for subsection (d) makes these subsections inapplicable.

(7) From subsection (e)(4)(I) because the categories of sources of the records in this system have been published in the **Federal Register** in broad generic terms in the belief that this is all that subsection (e)(4)(I) requires. In the event, however, that subsection (e)(4)(I) should be interpreted to require more detail as to the identity of sources of the records in the system, exemption from this provision is necessary in order to protect the confidentiality of the sources of enforcement information and of witnesses and informants.

(8) From subsection (f) to the extent that the system is exempt from other specific subsections of the Privacy Act.

(b) [Reserved]

Done in Washington, DC.

Theresa Nintemann,

Deputy Administrator.

[FR Doc. 2024–03343 Filed 2–16–24; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2024–0145]

RIN 1625–AA00

Safety Zone; Laguna Madre, South Padre Island, TX

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

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain navigable waters in the Laguna Madre. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by a firework display launched from a stationary barge in the Laguna Madre, South Padre Island, Texas. Entry of vessels or persons into this zone or remaining in the zone when it is in effect is prohibited unless specifically authorized by the Captain of the Port, Sector Corpus Christi or a designated representative.

DATES: This rule is effective from 6 p.m. on February 14, 2024 through 1 a.m. on February 15, 2024.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2024–0145 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email Lieutenant Commander Anthony Garofalo, Sector Corpus Christi Waterways Management Division, U.S. Coast Guard; telephone 361–939–5130, email *CCWaterways@uscg.mil*.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. We must establish this safety zone to protect personnel, vessels, and the marine environment from potential hazards created by the fireworks display, and we lack sufficient time to provide a reasonable comment period and consider any comments submitted before issuing the rule.

Under 5 U.S.C. 553(d)(3), and for the same reason provided above, the Coast Guard finds that good cause also exists for making this rule effective less than 30 days after publication in the **Federal Register**.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port, Sector Corpus Christi (COTP) has determined that potential hazards associated with the fireworks displays occurring from 6 p.m. on February 14, 2024 through 1 a.m. on February 15, 2024 will be a safety concern for anyone in the waters of the Laguna Madre area within a 700 yard radius of the following point; 26°6′5.05″ N, 97°10′12.46″ W. The purpose of this rule is to ensure safety of vessels and persons on these navigable waters in the safety zone while the display of the fireworks takes place in the Laguna Madre.

IV. Discussion of the Rule

This rule establishes a temporary safety zone beginning on the night of February 14, 2024, and continuing into the early morning of February 15, 2024. The safety zone will encompass certain navigable waters of the Laguna Madre, and is defined by a 700 yard radius around the launching platform, which will be located at the following point: 26°6′5.05″ N, 97°10′12.46″ W. No vessel or person is permitted to enter the temporary safety zone during the period when it is in effect without obtaining permission from the COTP or a designated representative, who may be contacted on Channel 16 VHF–FM (156.8 MHz), or by telephone at 361–939–0450. The Coast Guard will issue Broadcast Notices to Mariners, Local Notices to Mariners, and/or Safety Marine Information Broadcasts, as appropriate.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, and duration of the safety zone. The temporary safety zone will be in effect for the short period of 7 hours, beginning the night of February 14, 2024, into the early morning of February 15, 2024. The zone is limited to the area with a 700 yard radius of the launching position in the navigable waters of the Laguna Madre. Prohibiting vessel traffic within that zone does not completely restrict the traffic within the waterway, and the rule allows mariners to request permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, and Environmental Planning, COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f) and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

requirements, Security measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0145 to read as follows:

§ 165.T08–0145 Safety Zone; Laguna Madre, South Padre Island, TX.

(a) *Location.* The following area is a safety zone: all navigable waters of the Laguna Madre encompassed by a 700-yard radius from the following point; 26°6′5.05″ N, 97°10′12.46″ W.

(b) *Enforcement period.* This section is in effect, and subject to enforcement, from 6 p.m. on February 14, 2024 through 1 a.m. on February 15, 2024.

(c) *Regulations.* (1) According to the general regulations in § 165.23 of this part, remaining in, or entry into this temporary safety zone are prohibited unless authorized by the Captain of the Port, Sector Corpus Christi (COTP) or a designated representative. They may be contacted on Channel 16 VHF–FM (156.8 MHz) or by telephone at 361–939–0450.

(2) If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative.

(d) *Information broadcasts.* The COTP or a designated representative will inform the public of the enforcement times and date for this safety zone through Broadcast Notices to Mariners, Local Notices to Mariners, and/or Safety Marine Information Broadcasts as appropriate.

Dated: February 12, 2024.

Jason Gunning,

Captain, U.S. Coast Guard, Captain of the Port, Sector Corpus Christi.

[FR Doc. 2024–03406 Filed 2–14–24; 4:15 pm]

BILLING CODE 9110–04–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 531

[NHTSA–2022–0048]

RIN 2127–AM29

Exemptions From Average Fuel Economy Standards; Passenger Automobile Average Fuel Economy Standards

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

ACTION: Final rule; final decision to grant exemption.

SUMMARY: This final decision responds to petitions filed by several low volume manufacturers requesting exemption from the generally applicable corporate average fuel economy (CAFE) standards for several model years (MYs). The low volume manufacturers and MYs are as follows: Aston Martin Lagonda Limited for MYs 2008–2023, Ferrari N.V. for MYs 2016–2018 and 2020, Koenigsegg Automotive AB for MYs 2015 and 2018–2023, McLaren Automotive for MYs 2012–2023, Mobility Ventures LLC for MYs 2014–2016, Pagani Automobili S.p.A for MYs 2014 and 2016–2023, and Spyker Automobielen B.V. for MYs 2008–2010. NHTSA is exempting these manufacturers from the generally applicable CAFE standards for the model years listed and establishing alternative standards for each manufacturer at the levels stated below, which the agency has determined to be maximum feasible for each of those manufacturers for the model years in question.

DATES: This rule is effective March 21, 2024.

ADDRESSES: For access to the dockets to read background documents or comments received, go to *https://www.regulations.gov,* and/or: Docket Management Facility, M–30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Management Facility is open between 9 a.m. and 4 p.m. Eastern Time, Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Joseph Bayer, Chief of Fuel Economy Division, Office of Rulemaking, by phone at (202) 366–9540 or by fax at (202) 493–2290 or Hannah Fish, Attorney Advisor, Vehicle Standards and Harmonization, Office of the Chief Counsel, by phone at (202) 366–2992 or by fax at (202) 366–3820.

SUPPLEMENTARY INFORMATION:

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Regulatory Text

1. Introduction

The Energy Policy and Conservation Act (EPCA) of 1975, as amended by the Energy Independence and Security Act (EISA) of 2007,[1] directs the Secretary of Transportation, and the National Highway Traffic Safety Administration (NHTSA) by delegation,[2] to prescribe corporate average fuel economy (CAFE) standards for automobiles manufactured in each model year (MY). EPCA/EISA requires NHTSA to establish CAFE standards for passenger cars and light trucks at the ''maximum feasible average fuel economy level'' that it decides manufacturers can achieve in a MY,[3] based on the agency's consideration of four factors: technological feasibility, economic practicability, the effect of other standards of the Government on fuel economy, and the need of the United States to conserve energy.[4]

Congress provided in EPCA/EISA statutory authority for NHTSA to exempt a low volume manufacturer of passenger automobiles from the industry-wide passenger car standard if NHTSA concludes that the industry-wide passenger car standard is more stringent than the maximum feasible average fuel economy level that the manufacturer can achieve, and NHTSA establishes an alternative standard for that manufacturer's fleet of passenger cars at the maximum feasible average fuel economy level that the manufacturer can achieve.[5] Under EPCA/EISA, a low volume manufacturer is one that manufactured (whether in the United States or not) fewer than 10,000 passenger automobiles in the MY two years before the MY for which the exemption is sought, and that will manufacture fewer than 10,000

[1] 49 U.S.C. 32901 *et seq.*

[2] 49 CFR 1.95.

[3] 49 U.S.C. 32902(a).

[4] 49 U.S.C. 32902(f).

[5] 49 U.S.C. 32902(d). NHTSA notes that there is no statutory provision allowing exemptions from the light truck standards established in 49 CFR part 533.

passenger automobiles in the affected MY. NHTSA may set alternative fuel economy standards in three ways: (1) a separate standard for each exempted manufacturer; (2) a separate standard applicable to each class of exempted automobiles (classes based on design, size, price, or other factors); or (3) a single standard for all exempted manufacturers.[6] NHTSA has historically set individual standards for each exempted manufacturer.

49 CFR part 525 contains NHTSA's regulations implementing the requirements in 49 U.S.C. 32902. This part provides content and format requirements for low volume manufacturer petitions for exemption and specifies that those petitions must be submitted to NHTSA not later than 24 months before the beginning of the affected model year unless good cause for later submission is shown.[7] As discussed further below, manufacturers must include several data elements in their petitions, including among other things projected vehicle production mix, vehicle features for each vehicle configuration, projected average fuel economy figures for each production mix, and technological means for improving the fuel economy of the manufacturer's vehicles.[8] Part 525 also outlines the NHTSA process for publishing proposed and final decisions on petitions in the **Federal Register** and for accepting public input on proposed decisions.[9] A manufacturer's final alternative standard is codified at 49 CFR part 531.

This final decision responds to petitions filed by Aston Martin Lagonda Limited (AML) for MYs 2008–2023, Ferrari N.V. (Ferrari) for MYs 2016–2018 and 2020, Koenigsegg Automotive AB (Koenigsegg) for MYs 2015 and 2018–2023, McLaren Automotive (McLaren) for MYs 2012–2023, Mobility Ventures LLC (Mobility Ventures) for MYs 2014–2016, Pagani Automobili S.p.A (Pagani) for MYs 2014 and 2016–2023,[10] and Spyker Automobielen B.V. (Spyker) for MYs 2008–2010. NHTSA concludes that all seven manufacturers were, and are, eligible for an alternative standard for the listed model years and that the industry-wide passenger car CAFE standard for those model years is more stringent than the maximum feasible average fuel economy level that those manufacturers could, and can, achieve. Alternative standards for each manufacturer will be set at the levels discussed below.

2. Summary of the Proposed Decision

NHTSA published a proposed decision on July 1, 2022 (87 FR 39439) that proposed to exempt several low volume manufacturers from the generally applicable CAFE standards for several model years. Some of these model years had already passed, meaning that any NHTSA action prescribing alternative standards for past model years would be retroactive. NHTSA recognized that an agency's ability to prescribe retroactive rules is very limited; however, NHTSA concluded that based on a history of previously granting low volume exemption petitions when the agency did not publish proposed and final determinations on those exemption petitions before the beginning of a model year,[11] and the limited circumstances in this case, retroactively publishing alternative low volume CAFE standards was appropriate.

NHTSA also detailed the agency's approach to evaluating exemption petitions for model years that had already passed. NHTSA concluded that in addition to evaluating the manufacturer's exemption petitions for past model years, it was appropriate to evaluate the manufacturer's actual CAFE values if NHTSA had those values (either from EPA-verified data or from preliminary data submitted by the manufacturer). For imminently future model years, NHTSA evaluated whether the alternative standard for which the manufacturer petitioned was maximum feasible, and if not, what, if any, technologically feasible and economically practicable changes the manufacturer could make in the time frame before model year production would need to commence. NHTSA looked to the regulations implementing EPCA's low volume manufacturer exemption provisions, which required low volume manufacturers to submit petitions for exemption ''not later than 24 months before the beginning of the affected model year,'' as a guidepost for determining whether a low volume manufacturer could potentially make any additional changes to its vehicles.

All low volume manufacturers considered in the proposed decision met the threshold statutory requirements for eligibility; that is, all manufacturers manufactured or will manufacture fewer than 10,000 vehicles in the applicable model years. Some petitions for some model years were submitted late, although the late filings were accompanied by good cause claims, per 49 CFR part 525.[12] Regardless of the sufficiency of those good cause claims, NHTSA stated that due to the significant lateness of the agency's response to these specific exemption requests, it would be inequitable at this point to deny the late petitions on grounds of untimeliness. Moving forward, NHTSA expects manufacturers to remain cognizant of the requirement that each submission must be submitted not later than 24 months before the beginning of the affected model year unless good cause for later submission is shown.

When proposing maximum feasible average fuel economy levels, NHTSA must consider four factors: technological feasibility, economic practicability, the effect of other motor vehicle standards of the Government on fuel economy, and the need of the United States to conserve energy. NHTSA detailed in the proposed rule how the agency's consideration of these factors with low volume manufacturers differs from consideration of these factors for full-line manufacturers, and also how consideration of these factors as applied to past model years differs from consideration for future model years.

Per NHTSA's regulations at 49 CFR 525.7, NHTSA evaluated several pieces of information in each manufacturer's petition to assist the agency in assessing technologically feasible and economically practicable improvements for the manufacturer's fleet. This information included a description of the technological means selected by the manufacturer for improving the average fuel economy of its automobiles to be

[6] 49 U.S.C. 32902(d)(2).

[7] 49 CFR 525.6(b). *See also* 54 FR 40689 (Oct. 3, 1989). NHTSA has identified two broad categories of situations that would establish good cause for failure to submit a timely petition: situations in which necessary supporting data for the petition were unavailable until after the due date had passed (for example, a recently incorporated manufacturer might not have adequate time to file an exemption petition 24 months prior to the model year), and second, situations in which a legitimately unexpected noncompliance occurs (for example, if a company providing a low volume manufacturer with its engines goes out of business, and the manufacturer is forced to make an unanticipated engine switch, resulting in lower than expected fuel economy). That said, each determination that good cause was or was not shown for the late filing is made on an individual basis. Manufacturers should reach out to NHTSA as expeditiously as possible if they expect they cannot submit a petition in a timely manner.

[8] 49 CFR 525.7.

[9] 49 CFR 525.8.

[10] Pagani petitioned for alternative standards for MYs 2012–2021 but did not produce any vehicles for sale in the U.S. market in MYs 2012, 2013, and 2015.

[11] *See, e.g.,* 43 FR 33268 (July 31, 1978); 49 FR 11548 (March 1, 1979); 46 FR 29944 (June 4, 1981); 54 FR 40689 (October 3, 1989); 55 FR 12485 (April 4, 1990).

[12] 49 CFR 525.6 (''Each petition filed under this part must . . . Be submitted not later than 24 months before the beginning of the affected model year, unless good cause for later submission is shown.'').

manufactured in a model year, a chronological description of the manufacturer's past and planned efforts to implement the fuel-economy-improving technology in its fleet, a discussion of the alternative and additional means considered but not selected by the manufacturer that would have enabled its passenger automobiles to achieve a higher average fuel economy than is achievable with the means it described, and in the case of a manufacturer that planned to increase the average fuel economy of its passenger automobiles to be manufactured in either of the two model years immediately following the first affected model year, an explanation of the reasons for not making those increases in the affected model year.

To evaluate the potential effect of alternative CAFE standards on the need of the United States to conserve energy, NHTSA described two historical approaches. For several years, the agency categorically concluded that if it had already determined that it would not be technologically feasible or economically practicable for the low volume manufacturer to achieve a higher fuel economy standard than requested, denying the exemption or setting a higher alternative standard would not have had any effect on the need of the United States to conserve energy.[13] In later years the agency attempted to quantify that *de minimis* impact for illustrative purposes, by estimating the amount of additional fuel consumed by the exempted fleet over its operating lifetime.[14] The July 2022 proposed decision quantified the estimated additional fuel consumed by the exempted fleet in accordance with the second approach, using a combination of estimated and achieved fleet fuel economy values, and an updated data-based estimate of yearly low volume vehicle miles travelled (VMT) for some categories of low volume vehicles.[15] NHTSA sought comment on that approach and requested any other data or information on the driving patterns and mileage schedules of another category of low volume vehicles—vehicles used to transport wheelchair-bound or otherwise mobility-impaired individuals. NHTSA estimated that the additional fuel consumed by the entire low volume fleet considered in the proposed decision at the proposed alternative standards level equaled 39,769,449 additional gallons of gasoline or 0.001877% of total U.S. motor vehicle fuel consumption over the vehicles' lifetimes.

To evaluate the effect of ''other motor vehicle standards of the Government'' on fuel economy, NHTSA examined the agency's safety standards as well as EPA's emissions standards, which include criteria pollutant and greenhouse gas (GHG, which include CO_2, N_2O, CH_4, and hydrofluorocarbons) emissions standards.

NHTSA recognized that three manufacturers considered in the July 2022 proposal (Aston Martin, Ferrari, and McLaren) had received an alternative low volume GHG standard under the EPA small volume program for vehicles manufactured in MYs 2017–2021.[16] NHTSA explained that the agencies' (NHTSA's and EPA's) respective statutory authorities and regulations required a slightly different approach to examining these manufacturers' petitions for alternative standards and provided a comparison of differences between EPA's final small volume standards and NHTSA's proposed alternative standards. NHTSA sought comment on any new information the agency should consider on the impact of EPA's GHG standards on a manufacturer's ability to meet an alternative fuel economy standard.

Several manufacturers cited various Federal Motor Vehicle Safety Standards (FMVSS) that could impact their CAFE values, including FMVSS No. 214, Side Impact Protection, FMVSS No. 216, Roof Crush Resistance, FMVSS No. 226, Occupant Ejection Mitigation, FMVSS No. 301, Fuel System Integrity, FMVSS No. 111, Rear Visibility (concerning rearview mirrors), and the Pedestrian Protection requirements as proposed in the UN ECE Global Technical Regulation (GTR) No. 9. Broadly, manufacturers stated that these safety standards could have potentially adverse impacts on vehicles' achieved fuel economy levels because of additional vehicle weight required, and because they reduce potential aerodynamic improvements. Manufacturers also cited EPA and California non-GHG emissions standards as requirements that would demand additional balancing of priorities.

Using an analysis of estimates from prior CAFE standards rules,[17] NHTSA concluded that the small increase in weight from the FMVSSs (approximately 32 pounds, which was likely already incorporated in the vehicle) would have negligible effects on any vehicle considered in the proposed decision. NHTSA also concluded that a manufacturer's compliance with EPA's criteria pollutant emissions standards would have a negligible effect on the manufacturer's maximum feasible fuel economy level, based on EPA's specific consideration of its criteria pollutant emissions programs on small volume manufacturers.[18]

Accordingly, NHTSA had proposed alternative standards as follows: For MYs 2018 and prior, NHTSA proposed to use a combination of final fuel economy values received from EPA and some non-final fuel economy values received from manufacturers. NHTSA stated its belief that all manufacturers covered by the proposed decision submitted information sufficient for the agency to conclude that their achieved fuel economy levels for past model years were the maximum feasible fuel economy levels that they could have achieved for those model years.

For MYs 2019–2023, the proposed alternative standards considered both confidential business information (CBI) and non-CBI information submitted to the agency, including the manufacturer's requested alternative standard and predicted achieved fleet fuel economy value (if that value differed from the requested alternative standard). For imminently future model years (*i.e.,* MYs 2022 and 2023), NHTSA proposed standards that did not backslide (*i.e.,* that did not decrease from MY 2022 to 2023).

NHTSA tentatively concluded that the proposed fuel economy levels appropriately balanced the CAFE exemption program with EPCA's directive to conserve energy and that standards that did not backslide for imminently future model years were maximum feasible.

NHTSA sought comment on the analysis that led the agency to propose

[13] *See, e.g.,* 54 FR 40689 (Oct. 3, 1989).

[14] *See, e.g.,* 61 FR 46756 (Sep. 5, 1996), 71 FR 49407 (Aug. 23, 2006). In brief, the estimated amount of additional fuel consumed by the exempted fleet over its operating lifetime is a function of the difference between the manufacturer's actual CAFE standard and their requested alternative standard multiplied by the manufacturer's estimated U.S. production volume, multiplied then by an estimate of the total miles these vehicles could travel as an active part of the fleet. The resulting difference is then divided by the average number of gallons that the total U.S. automotive fleet uses. The final value shows the fleet's additional gallons of fuel use as a percentage of total U.S. automotive fuel use.

[15] Historically, low volume manufacturer petitions for exemption from CAFE standards have covered luxury vehicles, exotic high-performance vehicles, and vehicles exclusively designed to be used for transporting the wheelchair-bound or other mobility-impaired individuals.

[16] 85 FR 39561 (July 1, 2020).

[17] Final Regulatory Impact Analysis, Corporate Average Fuel Economy for MY 2017–MY 2025 Passenger Cars and Light Trucks, Table IV–3a (August 2012).

[18] 79 FR 23534 (April 28, 2014).

those alternative standards. In addition, NHTSA stated that the agency would consider any additional information submitted by commenters, manufacturers (if additional information became available), or EPA (if additional final fuel economy data became available) submitted during the pendency of the comment period associated with the proposal.

3. Summary and Response to Comments Received on the Proposal

NHTSA received four comments to the proposal. One individual commenter opposed the proposed exemption, believing that the exemption should not apply to expensive vehicles.[19] Another individual commenter broadly opposed the CAFE program based on, among other things, general opposition to climate science.[20]

The Alliance for Automotive Innovation (Auto Innovators) agreed with NHTSA's proposed approach to alternative standards through MY 2023. Auto Innovators stated that manufacturers affected by the proposal for past model year standards ''have no ability to change the technologies installed on their vehicles, to alter U.S.-directed production, or to otherwise achieve compliance with the CAFE regulation other than through the purchase of credits from other manufacturers or the payment of civil penalties.'' [21] Auto Innovators also stated that MY 2022 production will likely soon be ending, and there is little or no opportunity to change designs for MY 2023 production.[22] Auto Innovators urged NHTSA to propose future alternative standards at least 18 months before the affected model year, as ''low-volume manufacturers require similar or even more lead-time as larger manufacturers to adjust product designs and production plans'' if NHTSA were to finalize alternative standards other than those the manufacturer requested in its petition.[23]

Ferrari also supported the proposed alternative standards for affected model years and urged NHTSA to adopt the final standards as quickly as possible.[24] Ferrari reiterated the company's use of fuel economy-improving technologies, and stated that its fuel economy levels are highly dependent on the mix of models that its purchasers choose because of the limited number of models and powertrains.[25] Ferrari also noted EPA's final determination for alternative GHG standards for low volume manufacturers, which set standards for Ferrari for MYs 2017 through 2021.[26]

NHTSA considered these four comments. As discussed above, Congress provided in EPCA/EISA statutory authority for NHTSA to exempt a low volume manufacturer of passenger automobiles from the industry-wide passenger car standard if NHTSA concludes that the industry-wide passenger car standard is more stringent than the maximum feasible average fuel economy level that the manufacturer can achieve, and NHTSA establishes an alternative standard for that manufacturer's fleet of passenger cars at the maximum feasible average fuel economy level that the manufacturer can achieve. In addition, as stated in the NPRM, NHTSA does not consider the ability of a manufacturer to (through an increase in the price of the vehicle or otherwise) absorb civil penalty payments from having to meet a higher standard.[27] NHTSA disagrees with the individual commenter's assessment of the state of climate science, and that comment is discussed further in the Final Environmental Assessment, below. Finally, NHTSA considered Auto Innovators' and Ferrari's comments and is finalizing these alternative standards as expeditiously as possible.

4. Maximum Feasible Average Fuel Economy for Exempted Manufacturers

Considering the information presented in the proposed decision and comments received, NHTSA is setting alternative average fuel economy standards for these seven manufacturers for each model year at the levels identified in the proposed decision. NHTSA used several sources of data to determine these CAFE levels, including final and non-final fuel economy data, and CBI and non-CBI submitted by manufacturers. In addition, the standards do not backslide for imminently future model years. NHTSA believes that these alternative standards are maximum feasible for these manufacturers for these model years, that they are consistent with the purpose of EPCA/EISA, and that they appropriately balance the CAFE exemption program with EPCA's directive to conserve energy.

TABLE 4—ALTERNATIVE STANDARDS FOR MYS 2008–2023

	Aston Martin	Ferrari	Koenigsegg	McLaren	Mobility Ventures	Pagani	Spyker
2008	19.0						19.6
2009	18.6						19.6
2010	19.2						20.7
2011	19.1						
2012	19.2			23.2			
2013	20.1			24.0			
2014	19.7			23.8	19.6	15.6	
2015	19.8		16.7	22.9	20.1		
2016	20.2	21.7		23.2	20.1	15.6	
2017	21.4	21.5		24.3		15.6	
2018	22.9	21.6	16.7	23.3		15.6	
2019	22.4		16.6	22.5		15.5	
2020	22.6	21.1	16.6	22.5		15.5	
2021	24.9		16.6	21.5		15.5	
2022	24.9		16.9	24.6		15.5	
2023	24.9		16.9	25.7		15.5	

[19] NHTSA–2022–0048–0005.

[20] NHTSA–2022–0048–0007.

[21] NHTSA–2022–0048–0006, Attachment 1, at 1.

[22] *Id.*

[23] NHTSA–2022–0048–0006, Attachment 1, at 2.

[24] NHTSA–2022–0048–0004, Attachment 1, at 3.

[25] *Id.*

[26] *Id.*

[27] 87 FR 39443 (July 1, 2022) (*citing* 44 FR 3710 (Jan. 18, 1979)).

These alternative standards apply only to Aston Martin Lagonda Limited for MYs 2008–2023, Ferrari N.V. for MYs 2016–2018 and MY 2020, Koenigsegg Automotive AB for MYs 2015 and 2018–2023, McLaren Automotive for MYs 2012–2023, Mobility Ventures LLC for MYs 2014–2016, Pagani Automobili S.p.A for MYs 2014 and 2016–2023, and Spyker Automobielen B.V. for MYs 2008–2010. They do not apply to low volume manufacturers generally or to a class of automobiles of exempted manufacturers. Readers should remember that NHTSA does not set alternative standards for a given model year unless a manufacturer has requested them, and thus certain cells in the table above are blank.

NHTSA is also finalizing the correction to the reference to alternative fuel economy standards in 49 CFR 531.5(a), as paragraph (f) does not exist.

5. Regulatory Impact Analyses

a. Regulatory Evaluation

NHTSA has considered the potential impacts of this action under Executive Order (E.O.) 12866 and the Department of Transportation's regulatory policies and procedures and has concluded that those orders do not apply because this action is not an agency statement of general applicability and future effect. This decision is not generally applicable, because the agency has proposed to set alternative average fuel economy standards for each manufacturer.

b. Regulatory Flexibility Determination

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of proposed rulemaking, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions) unless the head of an agency certifies the proposal will not have a significant economic impact on a substantial number of small entities. The Small Business Administration's regulations at 13 CFR part 121 define a small business, in part, as a business entity ''which operates primarily within the United States.'' (13 CFR part 121.105(a)). SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a proposal will not have a significant economic impact on a substantial number of small entities.

I certify this final decision will not have a significant impact on a substantial number of small entities. This final decision exempts low volume manufacturers from the generally applicable passenger car CAFE standards and sets alternative standards for those low volume manufacturers at maximum feasible levels.

c. National Environmental Policy Act

The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4347) requires Federal agencies to consider the environmental impacts of proposed major Federal actions significantly affecting the quality of the human environment, as well as the impacts of alternatives to the proposed action.[28] The Council on Environmental Quality (CEQ) NEPA implementing regulations (40 CFR parts 1500–1508) direct Federal agencies to prepare an environmental assessment for a proposed action that is not likely to have significant effects or when the significance of the effects is unknown.[29] The environmental assessment must ''briefly discuss the purpose and need for the proposed action, alternatives[ ], and the environmental impacts of the proposed action and alternatives, and include a listing of agencies and persons consulted.'' [30] This section serves as the National Highway Traffic Safety Administration's (NHTSA) Final Environmental Assessment (Final EA).

1. Purpose and Need for Action

In accordance with the Energy Policy and Conservation Act (EPCA) of 1975, as amended by the Energy Independence and Security Act (EISA) of 2007, and the procedures at 49 CFR part 525, the purpose of this action is to set alternative corporate average fuel economy (CAFE) standards for low volume manufacturers that have petitioned the agency for an alternative standard at the maximum feasible fuel economy level that NHTSA believes each manufacturer can achieve in each model year. While the purpose of setting industry-wide fuel economy standards under EPCA/EISA is, among other things, energy conservation, Congress granted NHTSA the ability to provide an exemption to low volume manufacturers in part because it believed that the need of the United States to conserve energy would not be adversely affected by allowing the limited exemption.[31] If NHTSA did not grant alternative standards for low volume manufacturers, they would have to meet the industry-wide passenger car standard in each applicable model year, which, in most if not all cases, is more stringent than the maximum feasible fuel economy level that NHTSA believes these low volume manufacturers can achieve.

When determining the maximum feasible fuel economy levels that manufacturers can achieve in each model year, EPCA/EISA requires that NHTSA consider four factors: technological feasibility, economic practicability, the effect of other motor vehicle standards of the government on fuel economy, and the need of the United States to conserve energy. NHTSA relies on information in each low volume manufacturer's petition for exemption to propose alternative average fuel economy standards at the maximum feasible level for each manufacturer. However, the unique nature of this action requires NHTSA to set maximum feasible standards for model years that have already passed. NHTSA's proposed action and range of alternatives considered below reflect these statutory and practical considerations.

2. Proposed Action and Alternatives

The Draft EA considered a ''no-action alternative'' and two alternatives. The ''no-action alternative'' assumed that in the absence of NHTSA action on their petitions, manufacturers would meet their footprint-based CAFE standard for MYs 2013–2023.[32] One alternative proposed to set alternative standards at the levels that the manufacturers requested for model years for which NHTSA does not have final fuel economy data (the ''as-requested'' alternative); and the preferred alternative proposed to set standards at the levels detailed in the preamble above. NHTSA did not consider an alternative that proposed to set an alternative standard for a model year at a lower level than the manufacturer achieved in past model years (*i.e.,* in some cases for past model years what

[28] 42 U.S.C. 4332(2)(C).

[29] 40 CFR 1501.5(a).

[30] 40 CFR 1501.5(c)(2).

[31] *See, e.g.,* 44 FR at 3711 (Jan. 18, 1979).

[32] As discussed in the proposal and Draft EA (87 FR 39439, July 1, 2022), NHTSA has expired MY 2012 and earlier fuel economy credits in accordance with 49 CFR 536.5(c)(2), meaning that low volume manufacturers that built vehicles in MYs 2008–2012 cannot now buy fuel economy credits from manufacturers that exceeded their CAFE standard in those years to offset the CAFE values of the low volume vehicles produced in those years. As a simplifying assumption, because there can be no difference between the fuel used in MYs 2008–2012 under the no-action alternative baseline and action scenarios, fuel use in those years was not considered.

the manufacturer requested) because that would not have been the maximum feasible fuel economy level that the manufacturer could achieved.

3. Affected Environment

The Draft EA described that NHTSA actions regulating motor vehicle fuel economy could have a range of environmental impacts, including on energy use, air quality, climate change, resource extraction and use, and on environmental justice communities, among others. Every time NHTSA sets industry-wide CAFE standards, the agency examines the environmental impact of the proposed standards and a range of alternatives on these resources in an environmental impact statement (EIS). The EIS uses estimates of fuel consumption that would result if the agency adopted different levels of fuel economy standards to quantitatively estimate the impacts on energy use, air quality, and greenhouse gas emissions and climate change. NHTSA also qualitatively discusses the lesser impacts on other resource areas, including land use and development, hazardous materials and regulated waste, historical and cultural resources, noise, and environmental justice.

NHTSA's Final Supplemental Environmental Impact Statement (Final SEIS) for MY 2024–2026 passenger car and light truck fuel economy standards (hereinafter ''Final SEIS'') provided the most up-to-date estimates of the impact of different levels of fuel economy standards on these resource areas and discussion of the environmental impacts, at the time that NHTSA was completing the Draft EA associated with this decision.[33] The Final SEIS discussions of environmental impacts resulting from changes in fuel use from motor vehicles were incorporated by reference in the Draft EA,[34] and the Draft EA contains a summary of those discussions.[35]

4. Environmental Consequences

The Draft EA estimated the levels of changes in fuel consumption under the ''no-action alternative'' and two alternatives to provide a starting point to estimate a relative potential range of environmental impacts. To estimate the amount of additional fuel consumed by the exempted fleet over its operating lifetime,[36] NHTSA calculated the difference between the low volume manufacturer's footprint-based standard for MY 2013 forward (*i.e.,* the estimated fuel used under the no-action alternative, for model years for which fuel economy credits are available) and its proposed alternative standard (or achieved fleet fuel economy for model years that have already passed). NHTSA multiplied this difference by the manufacturer's estimated U.S. production volume,[37] and then by estimated total miles that these vehicles could travel as an active part of the fleet (*i.e.,* the vehicles' estimated yearly VMT).[38] The resulting estimates of additional lifetime fuel consumption for all manufacturers and model years considered in this action compared to the no-action alternative are shown below.

TABLE 6—ESTIMATED ADDITIONAL LIFETIME FUEL CONSUMPTION

	No action	Preferred alternative	As requested
Total Gallons	48,873,908	88,643,357	88,997,267
Difference from the No-Action Alternative	.....	39,769,449	40,123,359

To put this in perspective, NHTSA looked at the average amount of fuel consumed by an average passenger car subject to the industry-wide passenger car CAFE standard over its useful life, in this case a MY 2017 Toyota Camry. The estimated total gallons of fuel used if standards are set at the levels proposed in this action are roughly equivalent to the fuel used by approximately 8,534 MY 2017 Toyota Camrys. In other words, setting alternative standards at the levels proposed in this notice for the 15 model years covered by this notice would have the energy effect of a one-time addition of 171 MY 2017 Toyota Camrys per U.S. state. Compared to the pre-pandemic peak of approximately 17 million vehicles sold in the United States in a model year, the vehicles considered in this notice that cover fifteen model years contribute only a small amount to total U.S. transportation fuel use.

As with the impacts to energy use, NHTSA tentatively concluded that the proposed action would have a relatively minimal impact on air quality, and accordingly, air quality-related health effects, based on the relative percentage of fuel used by the vehicles considered in this action compared to total light-duty vehicle fuel use. As discussed in Chapter 4 of NHTSA's Final SEIS, nationwide criteria pollutant emissions from vehicle tailpipes are projected to decrease over time, even as VMT increases, due to increasingly stringent EPA regulation of criteria pollutant emissions and reductions in emissions from fuel production. NHTSA does not expect that trend to change based on the levels of fuel use projected for this action. In addition, some of the increases in criteria pollutant emissions projected in the Final SEIS are due to increases in upstream emissions from power plants from increased electric vehicle use. The vehicles considered in this action run primarily on gasoline; none of the vehicles with electrified powertrains draw energy from the electric grid. The same projected trends exist for toxic air pollutants; emissions are projected to decrease through 2050 based on increasingly stringent EPA regulations and reductions in emissions from fuel production, despite growth in total VMT. NHTSA does not expect that any of these trends would change based

[33] NHTSA has released a Draft Environmental Impact Statement for Corporate Average Fuel Economy Standards for Passenger Cars and Light Trucks, Model Years 2027–2032, and Fuel Efficiency Standards for Heavy-Duty Pickup Trucks and Vans, Model Years 2030–2035, available at *https://www.regulations.gov/docket/NHTSA-2022-0075*. This Draft EIS has additional analysis of the affected environment and environmental consequences associated with different levels of fuel economy and fuel efficiency standards; however, there is an ongoing comment period for that Draft EIS and NHTSA is still receiving comments on the approach and analysis used in that Draft EIS, which may yet be updated in the Final EIS. Accordingly, NHTSA continues to reference the Final SEIS mentioned above in this Final EA/FONSI.

[34] 40 CFR 1501.12.

[35] 87 FR 39455 (July 1, 2022).

[36] Approximately 15 years, based on the estimated passenger sedan life as calculated in the latest industry-wide CAFE rulemaking action.

[37] As discussed in the proposal, where NHTSA did not have final production data for a manufacturer, in particular where estimated production data is still confidential, the agency averaged the last three years of a manufacturers' actual production data.

[38] As discussed in the proposal, NHTSA estimated that a high-performance vehicle would travel 2,543 miles per year, while a mobility van would travel 11,128 miles per year.

on the minor increases in fuel use projected from this decision.

To estimate the approximate effect that this action would have on greenhouse gas emissions, NHTSA first used EPA's Greenhouse Gas Equivalencies Calculator to convert the estimated additional gallons of gasoline that would be used under the alternatives to metric tons of carbon dioxide equivalent emissions.[39] Over the lifetime of all model year vehicles considered in this notice (15 model years' worth of vehicles that each last approximately 15 years), for the fuel use considered in this action, the following additional carbon dioxide equivalent emissions are expected to result: 285,193 metric tons of carbon dioxide equivalent emissions under the ''as-requested'' alternative, and 282,047 metric tons of carbon dioxide equivalent emissions at the preferred alternative levels. To put this in perspective, NHTSA referenced EPA's Inventory of U.S. Greenhouse Gas Emissions and Sinks 1990–2019 report, which estimated that the U.S. passenger car and light truck vehicle fleet emits a little over a thousand million metric tons of carbon dioxide equivalent emissions per year (averaged over 2017, 2018, and 2019).[40] Over the useful life of a vehicle considered in this action, the vehicles considered in this action are estimated to produce an estimated increase in carbon dioxide equivalent emissions of 0.00169% and 0.00167% (for the as-requested and preferred alternative levels, respectively) of total light-duty vehicle carbon dioxide equivalent emissions over what the vehicles would have produced had they met their footprint-based standard.

NHTSA did not perform independent climate modeling because the agency believes that it is reasonable to infer that if relatively small—but not trivial—climate impacts would result from large-scale changes in fuel use from changes in the industry-wide passenger car and light truck standards, as demonstrated in the Final SEIS and referenced in the Draft EA, estimating the impacts of the no-action alternative and alternatives presented in this notice would not present any additional meaningful information for decisionmakers and the public.

Some potential impacts of the proposed action could be mitigated through other means; as discussed above, EPA also sets alternative carbon dioxide emissions standards for some of the low volume manufacturers considered in this notice. Unlike the structure of EPCA/EISA, which allows civil penalty payment for each 0.1 of a mile a gallon by which the manufacturer falls short of the applicable average fuel economy standard,[41] manufacturers must comply with EPA regulations promulgated under the Clean Air Act to sell their vehicles. To the extent that EPA sets higher alternative standards for model years 2022 and 2023 vehicles, some of the estimated impacts could potentially be mitigated. Next, the estimates of fuel use presented here are dependent on several assumptions, one being how many miles these vehicles are driven. The vehicles covered by this final decision represent an extremely small fraction of overall motor vehicle sales and on-road VMT; most of the vehicles considered in this notice are estimated to drive only a quarter of the mileage of the average passenger car. If these vehicles were or are driven less than NHTSA estimated, fuel use, air quality impacts, and greenhouse gas emissions would be reduced accordingly. However, to the extent that some of the vehicles considered in this action have already been built and sold, the impacts of those vehicles achieving a lower fuel economy level than their footprint-based standard represent an unavoidable adverse impact.

Both alternatives considered in the Draft EA and now this Final EA result in increased fuel use compared to the no-action alternative; however, the preferred alternative does result in marginally less estimated fuel use than the ''as requested'' alternative. NHTSA does not believe that establishing alternative CAFE standards at the preferred alternative levels would contribute appreciably to any of the environmental impacts considered in this Final EA.

NHTSA invited public comments on the contents and tentative conclusions of the Draft EA. No public comments directly addressing the Draft EA were received. One individual commenter loosely commented in opposition to industry-wide fuel economy regulations based on, among other things, concern about the quality and integrity of data used in climate science.[42] NHTSA disagrees with the commenter's assessment of the quality and integrity of peer-reviewed studies on climate change, and summarizes in the Final SEIS the panel-reviewed synthesis and assessment reports from various agencies that NHTSA relies on,[43] in accordance with CEQ regulations to ensure the scientific integrity of discussions and analyses in environmental documents.[44] As discussed in the Final SEIS, NHTSA relies on panel-reviewed synthesis and assessment reports ''because these reports assess numerous individual studies to draw general conclusions about the state of climate science and potential impacts of climate change, as summarized or found in peer-reviewed reports. These reports are reviewed and formally accepted by, commissioned by, or in some cases authored by U.S. government agencies and individual government scientists, and in many cases reflect and convey the consensus conclusions of expert authors. These sources have been vetted by both the climate change research community and by the U.S. government.'' [45] NHTSA notes here and in the Final SEIS that uncertainty still exists, as with any analysis of complex, long-term changes that involve many assumptions and uncertainties. That is why ''NHTSA relies on methods and data to analyze climate impacts that represent the best and most current information available on this topic and that have been subjected to extensive peer review and scrutiny.'' [46]

NHTSA did not make any changes to the Final EA in response to this comment.

5. Agencies and Persons Consulted

NHTSA coordinated with EPA to seek its feedback on the Draft EA, and EPA had no comments or suggested changes. NHTSA also coordinated with EPA for further input in drafting the Final EA.

6. Finding of No Significant Impact

NHTSA has reviewed the information presented in this Final EA and concludes that the proposed action will not have a significant effect on the human environment and that a ''finding of no significant impact'' is appropriate. This statement constitutes the agency's ''finding of no significant impact,'' and an environmental impact statement will not be prepared.

[39] U.S. EPA Greenhouse Gas Equivalencies Calculator, *https://www.epa.gov/energy/greenhouse-gas-equivalencies-calculator.* EPA specifies that estimates from this calculator are approximate and should not be used for emission inventories or formal carbon emissions analysis. NHTSA used these estimates as part of its determination that a formal carbon emissions analysis is not required for this action.

[40] U.S. EPA, Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2019, at Table 2–13, available at *https://www.epa.gov/sites/default/files/2021-04/documents/us-ghg-inventory-2021-main-text.pdf?VersionId=wEy8wQuGrWS8Ef_hSLXHy1kYwKs4.ZaU.*

[41] 49 U.S.C. 32912(b).

[42] NHTSA–2022–0048–0007, Attachment 1.

[43] Final SEIS, at 5–1.

[44] *See, e.g.,* 40 CFR 1502.23.

[45] Final SEIS, at 5–2.

[46] *Id.*

Regulatory Text

List of Subjects in 49 CFR Part 531

Energy conservation, Gasoline, Imports, Motor vehicles.

In consideration of the foregoing, 49 CFR part 531 is amended as follows:

PART 531—PASSENGER AUTOMOBILE AVERAGE FUEL ECONOMY STANDARDS

■ 1. The authority citation for part 531 is revised to read as follows:

Authority: 49 U.S.C. 32902, delegation of authority at 49 CFR 1.95.

■ 2. Amend § 531.5 by:
■ a. Removing from paragraph (a) the term ''paragraph (f)'' and adding in its place the term ''paragraph (e)'';
■ b. Revising paragraphs (e)(4) and (15); and
■ c. Adding paragraphs (e)(16) through (20).

The revisions and additions read as follows:

§ 531.5 Fuel economy standards.

* * * * *

(e) * * *

(4) Aston Martin Lagonda Limited

TABLE 8 TO § 531.5(e)(4)—AVERAGE FUEL ECONOMY STANDARD

Model year	(Miles per gallon)
1979	11.5
1980	12.1
1981	12.2
1982	12.2
1983	11.3
1984	11.3
1985	11.4
2008	19.0
2009	18.6
2010	19.2
2011	19.1
2012	19.2
2013	20.1
2014	19.7
2015	19.8
2016	20.2
2017	21.4
2018	22.9
2019	22.4
2020	22.6
2021	24.9
2022	24.9
2023	24.9

* * * * *

(15) Spyker Automobielen B.V.

TABLE 19 TO § 531.5(e)(15)—AVERAGE FUEL ECONOMY STANDARD

Model year	(Miles per gallon)
2006	18.9
2007	18.9
2008	19.6
2009	19.6
2010	20.7

(16) Ferrari

TABLE 20 TO § 531.5(e)(16)—AVERAGE FUEL ECONOMY STANDARD

Model year	(Miles per gallon)
2016	21.7
2017	21.5
2018	21.6
2020	21.1

(17) Koenigsegg

TABLE 21 TO § 531.5(e)(17)—AVERAGE FUEL ECONOMY STANDARD

Model year	(Miles per gallon)
2015	16.7
2018	16.7
2019	16.6
2020	16.6
2021	16.6
2022	16.9
2023	16.9

(18) McLaren

TABLE 22 TO § 531.5(e)(18)—AVERAGE FUEL ECONOMY STANDARD

Model year	(Miles per gallon)
2012	23.2
2013	24.0
2014	23.8
2015	22.9
2016	23.2
2017	24.3
2018	23.3
2019	22.5
2020	22.5
2021	21.5
2022	24.6
2023	25.7

(19) Mobility Ventures

TABLE 23 TO § 531.5(e)(19)—AVERAGE FUEL ECONOMY STANDARD

Model year	(Miles per gallon)
2014	19.6
2015	20.1
2016	20.1

(20) Pagani

TABLE 24 TO § 531.5(e)(20)—AVERAGE FUEL ECONOMY STANDARD

Model year	(Miles per gallon)
2014	15.6
2016	15.6
2017	15.6
2018	15.6
2019	15.5
2020	15.5
2021	15.5
2022	15.5
2023	15.5

Issued under authority delegated in 49 CFR 1.95 and 49 CFR 501.4.

Sophie Shulman,

Deputy Administrator.

[FR Doc. 2024–03119 Filed 2–16–24; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 230224–0053; RTID 0648–XD734]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for the Pacific cod sideboard limit by non-exempt American Fisheries Act (AFA) catcher vessels in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the annual 2024 Pacific cod sideboard limit established for non-exempt AFA catcher vessels in the Central Regulatory Area of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), February 15, 2024, through 2400 hours, A.l.t., December 31, 2024.

FOR FURTHER INFORMATION CONTACT: Adam Zaleski, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council

under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679. Regulations governing sideboard protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 680.

The annual 2024 Pacific cod sideboard limit established for non-exempt AFA catcher vessels in the Central Regulatory Area is 708 metric tons (mt), as established by the final 2023 and 2024 harvest specifications for groundfish in the GOA (88 FR 13238, March 2, 2023).

In accordance with § 679.20(d)(1)(iv), the Regional Administrator has determined that the annual 2024 Pacific cod sideboard limit established for non-exempt AFA catcher vessels in the Central Regulatory Area will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 0 mt and is setting aside the remaining 708 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii) and (iv), the Regional Administrator finds that this sideboard directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for the annual 2024 Pacific cod sideboard limit for non-exempt AFA catcher vessels in the Central Regulatory Area of the GOA.

While this closure is effective the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the directed fishing closure of the annual 2024 Pacific cod sideboard limit for the non-exempt AFA catcher vessels in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of February 12, 2024.

The Assistant Administrator for Fisheries, NOAA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

Dated: February 14, 2024.

Everett Wayne Baxter,

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

[FR Doc. 2024–03370 Filed 2–14–24; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 89, No. 34
Tuesday, February 20, 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

Agricultural Marketing Service

7 CFR Part 1216

[Doc. No. AMS–SC–23–0060]

Peanut Promotion, Research, and Information Order; Continuance Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notification of referendum.

SUMMARY: This document directs that a referendum be conducted among eligible producers of peanuts to determine whether they favor continuance of the Agriculture Marketing Service's (AMS) regulations regarding a national peanut research and promotion program.

DATES: This referendum will be conducted from April 8, 2024, through April 19, 2024. Eligible persons will receive a ballot through mail and will cast a ballot either through express mail or electronic ballot. To be eligible to vote, each person who is an eligible producer, at the time of the referendum and during the representative period from January 1 through December 31, 2022, shall be entitled to cast a ballot in the referendum. Ballots delivered to AMS via express mail or electronic ballot must show proof of delivery by no later than 11:59 p.m. Eastern Time (ET) on April 19, 2024, to be counted.

ADDRESSES: Copies of the Peanut Promotion, Research, and Information Order (Order) may be obtained from: Referendum Agent, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Room 1406–S, Stop 0244, Washington, DC 20250–0244, Telephone: (202) 720–8085; or contact Victoria M. Carpenter at (202) 400–1865 or Email: *VictoriaM.Carpenter@usda.gov* or Deanna Bakken at (970) 652–0923 or Email: *Deanna.Bakken@usda.gov.*

FOR FURTHER INFORMATION CONTACT: Victoria M. Carpenter, Marketing Specialist, MDD, SCP, AMS, USDA, 1400 Independence Avenue SW, Room 1406–S, Stop 0244, Washington, DC 20250–0244; Telephone: (202) 400–1865; or Email: *VictoriaM.Carpenter@usda.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Commodity Promotion, Research and Information Act of 1996 (7 U.S.C. 7411–7425) (Act), it is hereby directed that a referendum be conducted to ascertain whether continuance of the Order (7 CFR part 1216) is favored by eligible peanut producers covered under the program. The Order is authorized under the Act.

The representative period for establishing voter eligibility for the referendum is January 1 through December 31, 2022. Persons who are engaged in the production and sale of peanuts at the time of the referendum and during the representative period are eligible to vote. Persons who received an exemption from assessments pursuant to § 1216.56 for the entire representative period are ineligible to vote. AMS will provide the option for electronic balloting. The referendum will be conducted by mail and electronic ballot from April 8, 2024, through April 19, 2024. Further details will be provided in the ballot instructions.

Section 518 of the Act authorizes continuance referenda. Under § 1216.82(b) of the Order, the U.S. Department of Agriculture (USDA) must conduct a referendum every five years. The Secretary of Agriculture (Secretary) may also hold a referendum if 10 percent or more of all eligible peanut producers request that the Secretary do so, or at any time to determine whether persons subject to assessment favor continuance of the program. The last referendum was held in 2019. The Board voted to conduct the next referendum in April 2024. USDA would continue the Order if continuance is favored by a simple majority of the producers voting in the referendum and who, during the representative period January 1 through December 31, 2022, have been engaged in the production of peanuts.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the referendum ballot has been approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0093. There are approximately 6,702 producers who will be eligible to vote in the referendum. It will take an average of 15 minutes for each voter to read the voting instructions and complete the referendum ballot.

Referendum Order

Victoria M. Carpenter, Marketing Specialist; Deanna Bakken, Marketing Specialist; and Alexandra Caryl, Branch Chief, Market Development Division, SCP, AMS, USDA, Stop 0244, Room 1406–S, 1400 Independence Avenue SW, Washington, DC 20250–0244, are designated as the referendum agents to conduct this referendum. The referendum procedures at 7 CFR 1216.100 through 1216.107, which were issued pursuant to the Act, shall be used to conduct the referendum.

The referendum agent will mail or provide access electronically to the ballots to be cast in the referendum and voting instructions to all known, eligible producers prior to the first day of the voting period. Any eligible producer who does not receive a ballot should contact the referendum agent no later than three days before the end of the voting period. Ballots delivered via express mail or electronic ballot must show proof of delivery by no later than 11:59 p.m. ET on April 19, 2024, to be counted.

List of Subjects in 7 CFR Part 1216

Administrative practice and procedure, Advertising, Information, Marketing agreements, Peanuts, Reporting and recordkeeping requirements.

Authority: 7 U.S.C. 7411–7425; 7 U.S.C. 7401.

Erin Morris,

Associate Administrator, Agriculture Marketing Service.

[FR Doc. 2024–03371 Filed 2–16–24; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2, 15, 37, 73, 110, 140, 170 and 171

[NRC–2022–0046]

RIN 3150–AK74

Fee Schedules; Fee Recovery for Fiscal Year 2024

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend the licensing, inspection, special project, and annual fees charged to its applicants and licensees. The proposed amendments are necessary to comply with the Nuclear Energy Innovation and Modernization Act, which requires the NRC to recover, to the maximum extent practicable, approximately 100 percent of its annual budget less certain amounts excluded from this fee recovery requirement.

DATES: Submit comments by March 21, 2024. Comments received after this date will be considered if it is practical to do so, but the NRC is only able to ensure consideration for comments received before this date. Because the Nuclear Energy Innovation and Modernization Act requires the NRC to collect fees for fiscal year 2024 by September 30, 2024, the NRC must finalize any revisions to its fee schedules promptly, and thus is unable to grant any extension request of the comment period.

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–2022–0046. Address questions about NRC dockets to Dawn Forder; telephone: 301–415–3407; email: *Dawn.Forder@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule.
- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. eastern time, Federal workdays; telephone: 301–415–1677.

You can read a plain language description of this proposed rule at *https://www.regulations.gov/docket/NRC-2022-0046*. 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: Anthony Rossi, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–7341; email: *Anthony.Rossi@nrc.gov.*

SUPPLEMENTARY INFORMATION:

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I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2022–0046 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–2022–0046.
- *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 or 301–415–4737, or by email to *PDR.Resource@nrc.gov.* For the convenience of the reader, the ADAMS accession numbers are provided in the ''Availability of Documents'' section of 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, Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic submission of comments through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2022–0046 in your comment.

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 comments into ADAMS.

II. Background; Statutory Authority

The NRC's fee regulations are primarily governed by two laws: (1) the Independent Offices Appropriation Act, 1952 (IOAA) (31 U.S.C. 9701); and (2) the Nuclear Energy Innovation and Modernization Act (NEIMA) (42 U.S.C. 2215). The IOAA authorizes and encourages Federal agencies to recover, to the fullest extent possible, costs attributable to services provided to identifiable recipients. Under NEIMA, the NRC must recover, to the maximum extent practicable, approximately 100 percent of its annual budget, less the budget authority for excluded activities. Under section 102(b)(1)(B) of NEIMA, ''excluded activities'' include any fee-relief activity as identified by the Commission, generic homeland security activities, waste incidental to reprocessing activities, Nuclear Waste Fund activities, advanced reactor regulatory infrastructure activities, Inspector General services for the Defense Nuclear Facilities Safety Board, research and development at universities in areas relevant to the

NRC's mission, and a nuclear science and engineering grant program. In fiscal year (FY) 2024, in addition to the fee-relief activities identified by the Commission in prior fee rules the resources for the Minority Serving Institutions Grant Program are also identified as a fee-relief activity to be excluded from the fee recovery requirement (see Table 1, ''Excluded Activities,'' of this document for the list of all excluded activities).

Under NEIMA, the NRC must use its IOAA authority first to collect service fees for NRC work that provides specific benefits to identifiable recipients (such as licensing work, inspections, and special projects). The NRC's regulations in part 170 of title 10 of the *Code of Federal Regulation*s (10 CFR), ''Fees for Facilities, Materials, Import and Export Licenses, and Other Regulatory Services Under the Atomic Energy Act of 1954, as Amended,'' explain how the agency collects service fees from specific beneficiaries. Because the NRC's fee recovery under the IOAA (10 CFR part 170) will not equal 100 percent of the agency's total budget authority for the FY (less the budget authority for excluded activities), the NRC also assesses ''annual fees'' under 10 CFR part 171, ''Annual Fees for Reactor Licenses and Fuel Cycle Licenses and Materials Licenses, Including Holders of Certificates of Compliance, Registrations, and Quality Assurance Program Approvals and Government Agencies Licensed by the NRC,'' to recover the remaining amount necessary to comply with NEIMA.

III. Discussion

FY 2024 Fee Collection—Overview

The NRC is issuing this FY 2024 proposed fee rule based on the FY 2024 budget request as further described in the NRC's FY 2024 Congressional Budget Justification (CBJ) (NUREG–1100, Volume 39) because a full-year appropriation has not yet been enacted for FY 2024. The NRC will adjust the fees described in this proposed rule to reflect the enacted budget authority for FY 2024. The FY 2024 budget request is $1,006.4 million and proposes the use of $27.1 million in carryover to offset the Nuclear Reactor Safety budget. As a result, the gross budget authority in the FY 2024 budget request and the total budget authority used in the FY 2024 proposed fee rule is $979.2 million, which would be an increase of $52.1 million from FY 2023. The increase is primarily to support salaries and benefits, in accordance with the U.S. Office of Management and Budget (OMB) guidance.

As explained previously, certain portions of the NRC's total budget authority are excluded from NEIMA's fee recovery requirement under section 102(b)(1)(B) of NEIMA. Based on the FY 2024 budget request, these exclusions total $156.0 million, which is an increase of $19.0 million from FY 2023. These excluded activities consist of $104.2 million for fee-relief activities, $34.2 million for advanced reactor regulatory infrastructure activities, $15.1 million for generic homeland security activities, $1.0 million for waste incidental to reprocessing activities, and $1.5 million for Inspector General services for the Defense Nuclear Facilities Safety Board. Table I summarizes the excluded activities for the FY 2024 proposed fee rule. The FY 2023 amounts are provided for comparison purposes.

TABLE I—EXCLUDED ACTIVITIES

[Dollars in millions]

	FY 2023 Final rule	FY 2024 Proposed rule
Fee-Relief Activities:		
International activities	28.8	37.5
Agreement State oversight	11.9	12.8
Medical isotope production infrastructure	3.5	0.7
Fee exemption for nonprofit educational institutions	13.5	19.0
Costs not recovered from small entities under 10 CFR 171.16(c)	8.9	10.4
Regulatory support to Agreement States	14.2	12.1
Generic decommissioning/reclamation activities (not related to the operating power reactors and spent fuel storage fee classes)	12.5	2.8
Uranium recovery program and unregistered general licensees	2.7	5.4
Potential Department of Defense remediation program Memorandum of Understanding activities	0.9	0.8
Non-military radium sites	0.2	0.2
Minority Serving Institutions Grant Program	N/A	2.5
Subtotal Fee-Relief Activities	97.1	104.2
Activities under section 102(b)(1)(B)(ii) of NEIMA (Generic Homeland Security activities, Waste Incidental to Reprocessing activities, and the Defense Nuclear Facilities Safety Board)	16.1	17.6
Advanced reactor regulatory infrastructure activities	23.8	34.2
Total Excluded Activities	137.0	156.0

After accounting for the exclusions from the fee recovery requirement and net billing adjustments (*i.e.,* for FY 2024 invoices that the NRC estimates will not be paid during the FY, less payments received in FY 2024 for prior-year invoices), the NRC estimates that it must recover approximately $825.7 million in fees in FY 2024. Of this amount, the NRC estimates that $205.5 million will be recovered through 10 CFR part 170 service fees and approximately $620.2 million will be recovered through 10 CFR part 171 annual fees. Table II summarizes the fee recovery amounts for the FY 2024 proposed fee rule using the FY 2024 budget request and takes into account the budget authority for excluded activities and net billing adjustments. For all information presented in the following tables in this proposed rule, individual values may not sum to totals due to rounding. Please see the work papers, available as indicated in the ''Availability of Documents'' section of this document, for actual amounts.

Since a full-year appropriation has not yet been enacted, the FY 2024 proposed fee rule is based on the FY 2024 budget request. As discussed in the FY 2024 budget request, this proposed rule assumes the utilization of

$27.1 million in carryover to offset the Nuclear Reactor Safety budget. In addition, the proposed rule assumes the use of $16.0 million in prior-year unobligated carryover funds for the University Nuclear Leadership Program, which was not included in the budget request, but has historically been included by Congress in the final appropriations bill. The FY 2023 amounts are provided for comparison purposes. If the NRC receives an appropriation providing a different total budget authority, the final fee rule will reflect the final appropriation.

TABLE II—BUDGET AND FEE RECOVERY AMOUNTS

[Dollars in millions]

	FY 2023 Final rule	FY 2024 Proposed rule
Total Budget Authority	$927.2	$979.2
Less Budget Authority for Excluded Activities:	−137.0	−156.0
Balance	790.2	823.2
Fee Recovery Percent	100.0	100.0
Total Amount to be Recovered:	790.2	823.2
Less Estimated Amount to be Recovered through 10 CFR part 170 Fees	−195.0	−205.5
Estimated Amount to be Recovered through 10 CFR part 171 Fees	595.2	617.7
10 CFR part 171 Billing Adjustments:		
Unpaid Current Year Invoices (estimated)	3.7	4.5
Less Payments Received in Current Year for Previous Year Invoices (estimated)	−3.3	−2.0
Adjusted 10 CFR part 171 Annual Fee Collections Required	595.6	620.2
Adjusted Amount to be Recovered through 10 CFR parts 170 and 171 Fees	$790.6	$825.7

FY 2024 Fee Collection—Professional Hourly Rate

The NRC uses a professional hourly rate to assess fees under 10 CFR part 170 for specific services it provides. The professional hourly rate also helps determine flat fees (which are used for the review of certain types of license applications). This rate is applicable to all activities for which fees are assessed under §§ 170.21, ''Schedule of fees for production and utilization facilities, review of standard referenced design approvals, special projects, inspections and import and export licenses,'' and 170.31, ''Schedule of fees for materials licenses and other regulatory services, including inspections, and import and export licenses.'' The NRC's professional hourly rate is derived by adding budgeted resources for: (1) mission-direct program salaries and benefits; (2) mission-indirect program support; and (3) agency support (corporate support and the Inspector General (IG)). The NRC then subtracts certain offsetting receipts and divides this total by the mission-direct full-time equivalent (FTE) converted to hours (the mission-direct FTE converted to hours is the product of the mission-direct FTE multiplied by the estimated annual mission-direct FTE productive hours). The only budgeted resources excluded from the professional hourly rate are those for mission-direct contract resources, which are generally billed to licensees separately. The following shows the professional hourly rate calculation:

$$\text{Professional Hourly Rate} = \frac{\text{Budgeted Resources}}{\text{Mission-Direct FTE Converted to Hours}} = \frac{\$834.1 \text{ million}}{1{,}730.4 \times 1{,}500} = \$321$$

For FY 2024, the NRC is proposing to increase the professional hourly rate from $300 to $321. The 7.1 percent increase in the professional hourly rate is primarily due to a 7.3 percent increase in budgeted resources of approximately $56.6 million. The increase in budgeted resources is primarily due to the following: (1) an increase in mission-direct FTE to support new reactor licensing activities, the review of license renewal applications, an increased workload within the reactor decommissioning program; and (2) an increase in the fully-costed FTE rate compared to FY 2023 due to an increase in salaries and benefits to support Federal pay raises for NRC employees.

In addition, the NRC anticipates an increase in mission-direct FTE to support the increase in licensing and decommissioning activities. This anticipated increase in the number of mission-direct FTE compared to FY 2023 partially offsets the proposed increase in the professional hourly rate caused by the overall estimated increase in budgeted resources. The professional hourly rate is inversely related to the mission-direct FTE amount; therefore, as the number of mission-direct FTE increase, the professional hourly rate may decrease. Based on the FY 2024 budget request, the number of mission-direct FTE is expected to increase by approximately 58, primarily to support the following: (1) the review of new reactor licensing activities, including the review of standard design approvals, pre-application activities, and construction permits; (2) licensing and oversight activities for the reactor decommissioning program, which includes both power and non-power reactors in various stages of decommissioning; (3) the review of licensing actions related to enrichment and manufacturing of high assay low-enrichment uranium (HALEU) fuel and accident tolerant fuel (ATF); and (4) the review of one new fuel facility license application (TRISO–X, LLC) and one new medical isotope facility (Niowave).

The FY 2024 estimate for annual mission-direct FTE productive hours is 1,500 hours, which is a decrease from 1,551 hours in FY 2023. This estimate reflects the average number of hours that a mission-direct employee spends on mission-direct work annually. This estimate, therefore, excludes hours charged to annual leave, sick leave,

holidays, training, and general administrative tasks. Table III shows the professional hourly rate calculation methodology. The FY 2023 amounts are provided for comparison purposes.

TABLE III—PROFESSIONAL HOURLY RATE CALCULATION

[Dollars in millions, except as noted]

	FY 2023 Final rule	FY 2024 Proposed rule
Mission-Direct Program Salaries & Benefits	$359.2	$395.1
Mission-Indirect Program Support	$118.8	$120.2
Agency Support (Corporate Support and the IG)	$299.5	$318.9
Subtotal	$777.5	$834.1
Less Offsetting Receipts [1]	$0.0	$0.0
Total Budgeted Resources Included in Professional Hourly Rate	$777.5	$834.1
Mission-Direct FTE	1,672.2	1,730.4
Annual Mission-Direct FTE Productive Hours (Whole numbers)	1,551	1,500
Mission-Direct FTE Converted to Hours (Mission-Direct FTE multiplied by Annual Mission-Direct FTE Productive Hours)	2,593,582	2,595,600
Professional Hourly Rate (Total Budgeted Resources Included in Professional Hourly Rate Divided by Mission-Direct FTE Converted to Hours) (Whole Numbers)	$300	$321

FY 2024 Fee Collection—Flat Application Fee Changes

The NRC proposes to amend the flat application fees it charges in its schedule of fees in § 170.31 to reflect the revised professional hourly rate of $321. The NRC charges these fees to applicants for materials licenses and other regulatory services, as well as to holders of materials licenses. The NRC calculates these flat fees by multiplying the average professional staff hours needed to process the licensing actions by the professional hourly rate for FY 2024. As part of its calculations, the NRC analyzes the actual hours spent performing licensing actions and estimates the five-year average of professional staff hours that are needed to process licensing actions as part of its biennial review of fees. These actions are required by section 205(a) of the Chief Financial Officers Act of 1990 (31 U.S.C. 902(a)(8)). The NRC performed this review for the FY 2023 proposed fee rule and will perform this review again for the FY 2025 proposed fee rule. The higher professional hourly rate of $321 is the primary reason for the increase in flat application fees (see the work papers).

In order to simplify billing, the NRC rounds these flat fees to a minimal degree. Specifically, the NRC rounds these flat fees (up or down) in such a way that ensures both convenience for its stakeholders and minimal effects due to rounding. Accordingly, fees under $1,000 are rounded to the nearest $10, fees between $1,000 and $100,000 are rounded to the nearest $100, and fees greater than $100,000 are rounded to the nearest $1,000.

The proposed flat fees are applicable for certain materials licensing actions (see fee categories 1.C. through 1.D., 2.B. through 2.F., 3.A. through 3.S., 4.B. through 5.A., 6.A. through 9.D., 10.B., 15.A. through 15.L., 15.R., and 16 of § 170.31). Applications filed on or after the effective date of the FY 2024 final fee rule will be subject to the revised fees in the final rule. Since international activities are excluded from the fee recovery requirement, fees are not assessed for import and export licensing actions under 10 CFR parts 170 and 171.

FY 2024 Fee Collection—Low-Level Waste Surcharge

The NRC proposes to assess a generic low-level waste (LLW) surcharge of $3.820 million. Disposal of LLW occurs at commercially-operated LLW disposal facilities that are licensed by either the NRC or an Agreement State. Four existing LLW disposal facilities in the United States accept various types of LLW. All are located in Agreement States and, therefore, are regulated by an Agreement State, rather than the NRC. The NRC proposes to allocate this surcharge to its licensees based on data available in the U.S. Department of Energy's (DOE) Manifest Information Management System. This database contains information on total LLW volumes disposed of by four generator classes: academic, industrial, medical, and utility. The ratio of waste volumes disposed of by these generator classes to total LLW volumes disposed over a period of time is used to estimate the portion of this surcharge that will be allocated to the power reactors, fuel facilities, and the materials users fee classes. The materials users fee class portion is adjusted to account for the large percentage of materials licensees that are licensed by the Agreement States rather than the NRC.

Table IV shows the allocation of the LLW surcharge and its allocation across the various fee classes.

[1] The fees collected by the NRC for Freedom of Information Act (FOIA) services and indemnity fees (financial protection required of all licensees for public liability claims at 10 CFR part 140) are subtracted from the budgeted resources amount when calculating the 10 CFR part 170 professional hourly rate, per the guidance in OMB Circular A–25, ''User Charges.'' The budgeted resources for FOIA activities are allocated under the product for Information Services within the Corporate Support business line. The budgeted resources for indemnity activities are allocated under the Licensing Actions and Research and Test Reactors products within the Operating Reactors business line.

TABLE IV—ALLOCATION OF LLW SURCHARGE, FY 2024

[Dollars in millions]

Fee classes	LLW surcharge	
	Percent	$
Operating Power Reactors	86.9	3.320
Spent Fuel Storage/Reactor Decommissioning	0.0	0.000
Non-Power Production or Utilization Facilities	0.0	0.000
Fuel Facilities	10.4	0.397
Materials Users	2.7	0.103
Transportation	0.0	0.000
Rare Earth Facilities	0.0	0.000
Uranium Recovery	0.0	0.000
Total	100.0	3.820

FY 2024 Fee Collection—Revised Annual Fees

In accordance with SECY–05–0164, ''Annual Fee Calculation Method,'' the NRC rebaselines its annual fees every year. ''Rebaselining'' entails analyzing the budget in detail and then allocating the FY 2024 budgeted resources to various classes or subclasses of licensees. It also includes updating the number of NRC licensees in its fee calculation methodology.

The NRC is proposing revisions to its annual fees in §§ 171.15 and 171.16 to recover approximately 100 percent of the FY 2024 budget request less the budget authority for excluded activities, the estimated amount to be recovered through 10 CFR part 170 fees, and the assumed utilization of $27.1 million in carryover to offset the Nuclear Reactor Safety budget.

Table V shows the proposed rebaselined fees for FY 2024 for a sample of licensee categories. The FY 2023 amounts are provided for comparison purposes.

TABLE V—REBASELINED ANNUAL FEES

[Actual dollars]

Class/category of licenses	FY 2023 final annual fee	FY 2024 proposed annual fee
Operating Power Reactors	$5,492,000	$5,488,000
+ Spent Fuel Storage/Reactor Decommissioning	261,000	330,000
Total, Combined Fee	5,753,000	5,818,000
Spent Fuel Storage/Reactor Decommissioning	261,000	330,000
Non-Power Production or Utilization Facilities	96,300	97,700
High Enriched Uranium Fuel Facility (Category 1.A.(1)(a))	5,156,000	6,307,000
Low Enriched Uranium Fuel Facility (Category 1.A.(1)(b))	1,747,000	2,138,000
Uranium Enrichment (Category 1.E)	2,247,000	2,748,000
UF_6 Conversion and Deconversion Facility (Category 2.A.(1))	1,095,000	1,339,000
Basic *In Situ* Recovery Facilities (Category 2.A.(2)(b))	52,200	54,300
Typical Users:		
Radiographers (Category 3O)	37,900	43,900
All Other Specific Byproduct Material Licensees (Category 3P)	12,300	14,500
Medical Other (Category 7C)	18,000	21,400
Device/Product Safety Evaluation—Broad (Category 9A)	24,100	29,600

The work papers that support this proposed rule show in detail how the NRC allocates the budgeted resources for each class of licensees and calculates the fees.

Paragraphs a. through h. of this section describe the budgeted resources allocated to each class of licensees and the calculations of the rebaselined fees. For more information about detailed fee calculations for each class, please consult the accompanying work papers for this proposed rule.

a. Operating Power Reactors

The NRC proposes to collect $515.9 million in annual fees from the operating power reactors fee class in FY 2024, as shown in table VI. The FY 2023 operating power reactors fees are shown for comparison purposes.

TABLE VI—ANNUAL FEE SUMMARY CALCULATIONS FOR OPERATING POWER REACTORS

[Dollars in millions]

Summary fee calculations	FY 2023 final rule	FY 2024 proposed rule
Total budgeted resources	$665.3	$675.1
Less estimated 10 CFR part 170 receipts	−158.9	−165.3
Net 10 CFR part 171 resources	506.4	509.9

TABLE VI—ANNUAL FEE SUMMARY CALCULATIONS FOR OPERATING POWER REACTORS—Continued

[Dollars in millions]

Summary fee calculations	FY 2023 final rule	FY 2024 proposed rule
Allocated generic transportation	0.5	0.6
Allocated LLW surcharge	3.5	3.3
Billing adjustment	0.3	2.1
Total required annual fee recovery	510.7	515.9
Total operating reactors	93	94
Annual fee per operating reactor	$5.492	$5.488

In comparison to FY 2023, the FY 2024 proposed annual fee for the operating power reactors fee class is decreasing primarily due to the following: (1) an anticipated increase in 10 CFR part 170 estimated billings; (2) an increase in the total number of operating power reactors from 93 to 94; and (3) the assumed utilization of $27.1 million in carryover to offset the Nuclear Reactor Safety budget. As discussed further below, the assumed utilization of carryover mitigates the proposed increase in the budgeted resources for the operating power reactors fee class.[2] The decrease in the proposed annual fee for the operating power reactors fee class is partially offset due to the following: (1) an increase in the budgeted resources; and (2) an increase in the 10 CFR part 171 billing adjustment.

The 10 CFR part 170 estimated billings increased primarily due to the following: (1) an anticipated increase in hours associated with the review of an increasing number of license renewal applications; and (2) an anticipated increase in new reactor licensing activities, including the review of standard design approvals, pre-application activities, and construction permits. This estimated increase is partially offset by an expected decline in the submission of topical reports. As explained above, because the NRC's fee recovery under 10 CFR part 170 will not equal approximately 100 percent of the agency's budget authority for the fiscal year, the NRC also assesses 10 CFR part 171 annual fees. Estimated 10 CFR part 170 billings, therefore, are inversely related to the projected annual fee for a fee class. The more the NRC estimates to collect in 10 CFR part 170 billings, the less it estimates to collect in annual fees.

The increase in the budgeted resources for the operating power reactors fee class is primarily due to the following: (1) an increase to support new reactor licensing activities, including the review of standard design approvals, pre-application activities, and construction permits; (2) an increase to support the review of license renewal applications; and (3) an increase in the fully-costed FTE rate compared to FY 2023 due to an increase in salaries and benefits. However, the effect of the increase on the proposed annual fee for the operating power reactors fee class is offset primarily due to the assumed use of $27.1 million in carryover to offset the Nuclear Reactor Safety budget as described in the FY 2024 budget request. The increase in budgeted resources is also mitigated by the following: (1) an expected decline in topical report submissions, guidance development, and process improvement activities; (2) a reduction in construction inspection activities due to the transition of the Vogtle Electric Generating Plant (Vogtle Unit 3) and the expected transition of Vogtle Unit 4 from construction into operation; and (3) a reduction in rulemaking activities.

The proposed annual fee is also affected by: (1) an increase in the 10 CFR part 171 billing adjustment due to the timing of invoices issued in FY 2023; and (2) an increase in the generic transportation surcharge due to an increase in the overall budgeted resources for certificates of compliance (CoCs) for the operating power reactors fee class.

The proposed fee-recoverable budgeted resources are divided equally among the 94 licensed operating power reactors, an increase of one operating power reactor compared to FY 2023 due the proposed assessment of annual fees for Vogtle Unit 4, resulting in a proposed annual fee of $5,488,000 per operating power reactor. Additionally, the NRC estimates that each licensed operating power reactor will be assessed the FY 2024 spent fuel storage/reactor decommissioning proposed annual fee of $330,000 (see Table VII and the discussion that follows). The NRC estimates that the combined FY 2024 proposed annual fee for each operating power reactor will be $5,818,000.

Section 102(b)(3)(B)(i) of NEIMA established a cap for the annual fees charged to operating reactor licensees; under this provision, the annual fee for an operating reactor licensee, to the maximum extent practicable, shall not exceed the annual fee amount per operating reactor licensee established in the FY 2015 final fee rule (80 FR 37432; June 30, 2015), adjusted for inflation. The NRC included an estimate of the operating power reactors fee class annual fee in Appendix C, ''Estimated Operating Power Reactors Annual Fee,'' of the FY 2024 CBJ to increase transparency for stakeholders. The NRC developed this estimate based on the staff's allocation of the FY 2024 CBJ to fee classes under 10 CFR part 170, and allocations within the operating power reactors fee class under 10 CFR part 171. The fee estimate included in the FY 2024 CBJ assumed 94 operating power reactors in FY 2024 and applied various data assumptions from the FY 2022 final fee rule. Based on these allocations and assumptions, the operating power reactors fee class annual fee included in the FY 2024 CBJ was estimated to be $5.3 million, approximately $0.6 million below the FY 2015 operating power reactors annual fee amount adjusted for inflation of $5.9 million. Although this proposed rule is based on the FY 2024 budget request, the assumptions made between budget formulation and the development of this proposed rule have changed such that the proposed annual fee for the operating power reactor fee class is $5.488, compared to the estimated $5.3 million in the CBJ. However, the FY 2024 proposed annual fee of $5,488,000 remains below the FY 2015 operating power reactors fee class annual fee amount, as adjusted for inflation.

[2] As explained above, the NRC is issuing this FY 2024 proposed fee rule based on the FY 2024 budget request because a full-year appropriation has not yet been enacted for FY 2024. If the enacted budget authority for FY 2024 does not include the assumed utilization of $27.1 million in carryover to offset the Nuclear Reactor Safety budget, it is likely that the annual fee for the operating power reactors fee class could increase.

In FY 2016, the NRC amended 10 CFR 171.15 to establish a variable annual fee structure for light-water reactor (LWR) small modular reactors (SMRs) (81 FR 32617; May 24, 2016). In FY 2023, the NRC further amended § 171.5 to: (1) expand the applicability of the SMR variable fee structure to include non-LWR SMRs; and (2) establish an additional minimum fee and variable rate applicable to SMRs with a licensed thermal power rating of less than or equal to 250 megawatts-thermal (MWt) (88 FR 39120; June 15, 2023). This revision to the SMR variable annual fee structure retained the bundled unit concept for SMRs and the approach for calculating fees for reactors, or bundled units, with licensed thermal power ratings greater than 250 MWt.

Currently, there are no operating SMRs; therefore, the NRC will not assess an annual fee in FY 2024 for this type of licensee.

b. Spent Fuel Storage/Reactor Decommissioning

The NRC proposes to collect $41.0 million in annual fees from 10 CFR part 50 and 10 CFR part 52 power reactor licensees, and from 10 CFR part 72 licensees that do not hold a 10 CFR part 50 license or a 10 CFR part 52 combined license, to recover the budgeted resources for the spent fuel storage/reactor decommissioning fee class in FY 2024, as shown in table VII. The FY 2023 spent fuel storage/reactor decommissioning fees are shown for comparison purposes.

TABLE VII—ANNUAL FEE SUMMARY CALCULATIONS FOR SPENT FUEL STORAGE/REACTOR DECOMMISSIONING

[Dollars in millions]

Summary fee calculations	FY 2023 final rule	FY 2024 proposed rule
Total budgeted resources	$42.9	$51.0
Less estimated 10 CFR part 170 receipts	−12.4	−12.2
Net 10 CFR part 171 resources	30.5	38.8
Allocated generic transportation costs	1.6	2.0
Billing adjustments	0.0	0.2
Total required annual fee recovery	32.1	41.0
Total spent fuel storage facilities	123	124
Annual fee per facility	$0.261	$0.330

In comparison to FY 2023, the FY 2024 proposed annual fee for the spent fuel storage/reactor decommissioning fee class is increasing primarily due to a rise in the budgeted resources and an expected decrease in 10 CFR part 170 estimated billings. The proposed annual fee is partially offset by an increase in the number of licensees increasing from 123 to 124.

The budgeted resources increased primarily to support the following: (1) an increase in FTEs to support licensing and oversight activities for the reactor decommissioning program, which includes both power and non-power reactors in various stages of decommissioning; and (2) an increase in the fully-costed FTE rate compared to FY 2023 due to an increase in salaries and benefits.

The proposed annual fee is also increasing due to the expected decrease in the 10 CFR part 170 estimated billings, which in turn is primarily due to the following: (1) the completion of the safety and environmental review of the Holtec HI–STORE consolidated interim storage facility application; (2) the termination of the license for the La Crosse Boiling Water Reactor; and (3) a decrease in decommissioning licensing and inspection activities at multiple sites. This decrease is expected to be partially offset by the following: (1) an increase in hours to support the staff's review of a new fuel storage system; and (2) an increase to support the staff's review of applications for renewals, amendments, exemptions, and inspections for independent spent fuel storage installation and dry cask storage CoCs at multiple sites.

The proposed increase in the annual fee is also affected by these contributing factors: (1) an increase in the generic transportation surcharge due to an increase in the generic transportation budgeted resources for the spent fuel storage/reactor decommissioning fee class; and (2) an increase in the 10 CFR part 171 billing adjustment due to the timing of invoices in FY 2023.

The required annual fee recovery amount is divided equally among 124 licensees, an increase of one licensee compared to FY 2023 due to the proposed assessment of annual fees for Vogtle Unit 4, resulting in a proposed FY 2024 annual fee of $330,000 per licensee.

c. Fuel Facilities

The NRC proposes to collect $24.9 million in annual fees from the fuel facilities fee class in FY 2024, as shown in table VIII. The FY 2023 fuel facilities fees are shown for comparison purposes.

TABLE VIII—ANNUAL FEE SUMMARY CALCULATIONS FOR FUEL FACILITIES

[Dollars in millions]

Summary fee calculations	FY 2023 final rule	FY 2024 proposed rule
Total budgeted resources	$26.6	$32.4
Less estimated 10 CFR part 170 receipts	−9.2	−10.5
Net 10 CFR part 171 resources	17.4	21.9
Allocated generic transportation	1.9	2.5
Allocated LLW surcharge	0.4	0.4

TABLE VIII—ANNUAL FEE SUMMARY CALCULATIONS FOR FUEL FACILITIES—Continued

[Dollars in millions]

Summary fee calculations	FY 2023 final rule	FY 2024 proposed rule
Billing adjustments	0.0	0.1
Total remaining required annual fee recovery	$19.7	$24.9

In comparison to FY 2023, the FY 2024 proposed annual fee for the fuel facilities fee class is increasing primarily due to a rise in budgeted resources. This is partially offset by an expected increase in 10 CFR part 170 estimated billings. As explained above, because the NRC's fee recovery under 10 CFR part 170 will not equal approximately 100 percent of the agency's budget authority for the fiscal year (less the budget authority for excluded activities), the NRC also assesses 10 CFR part 171 annual fees. Estimated 10 CFR part 170 billings, therefore, are inversely related to the proposed annual fee for a fee class. The more the NRC estimates to collect in 10 CFR part 170 billings, the less it estimates to collect in annual fees. While the NRC anticipates an increase in 10 CFR part 170 estimated billings, this anticipated increase was not enough to offset the overall increase in budgetary resources in the FY 2024 budget request.

In the FY 2024 budget request, which this proposed rule is based on, the budgeted resources increased primarily to support the following: (1) the review of licensing actions related to enrichment and manufacturing of HALEU fuel and ATF; (2) the review of two fuel facility license applications; (3) the development and maintenance of licensing guidance; (4) emergency preparedness and physical security reviews for license amendments and renewals; (5) programmatic oversight activities in support for Category II fuel facilities and an anticipated new fuel facility; (6) associated fuel facilities rulemaking activities; and (7) an increase in the fully-costed FTE rate compared to FY 2023 due to an increase in salaries and benefits. The increase in budgetary resources is partially offset due to a decline in IT services.

The proposed increase in the annual fee is also affected by these contributing factors: (1) a rise in the generic transportation surcharge due to a new CoC within the fuel facilities fee class; and (2) a surcharge in the 10 CFR part 171 billing adjustment due to the timing of invoices in FY 2023.

The proposed annual fee is partially offset by an anticipated increase in the 10 CFR part 170 estimated billings. The 10 CFR part 170 estimated billings are expected to increase primarily due to the following: (1) the continued review of the TRISO–X, LLC, fuel fabrication facility application; (2) the review of anticipated license amendment requests; and (3) the review of the National Institute of Standards and Technology's license renewal application for possession and use of its special nuclear material. Yet, this increase is offset by the following: (1) the completion of the review of Westinghouse Electric Company, LLC's license transfer application; (2) the near completion of the review of the Global Nuclear Fuel Americas, LLC, amendment for an increase in enrichment activities up to 8 weight percent uranium-235; (3) the delay of the submittal of Global Nuclear Fuel Americas, LLC, amendment for an increase in enrichment activities up to 20 weight percent uranium-235; and (4) the delay of a new fuel facility application.

The NRC will continue allocating annual fees to individual fuel facility licensees based on the effort/fee determination matrix developed in the FY 1999 final fee rule (64 FR 31448; June 10, 1999). To briefly recap, the matrix groups licensees within this fee class into various fee categories. The matrix lists processes that are conducted at licensed sites and assigns effort factors for the safety and safeguards activities associated with each process (these effort levels are reflected in table IX). The annual fees are then distributed across the fee class based on the regulatory effort assigned by the matrix. The effort factors in the matrix represent regulatory effort that is not recovered through 10 CFR part 170 fees (*e.g.,* rulemaking, guidance). Regulatory effort for activities that are subject to 10 CFR part 170 fees, such as the number of inspections, is not applicable to the effort factor.

NRC authorized the Centrus American Centrifuge Plant to begin its HALEU demonstration program operations at the Category II level on September 21, 2023. In the FY 2024 proposed fee rule, this change in operations caused the safeguard effort factors for ''scrap/waste'' to increase from 0 (no effort) to 1 (low effort), ''enrichment'' to increase from 5 (moderate effort) to 10 (high effort) and ''sensitive information'' to increase from 5 (moderate effort) to 10 (high effort), resulting in an increase of the safeguards efforts factors from 11 to 22 compared to the FY 2023 final fee rule.

TABLE IX—EFFORT FACTORS FOR FUEL FACILITIES, FY 2024

Facility type (fee category)	Number of facilities	Effort factors	
		Safety	Safeguards
High Enriched Uranium Fuel (1.A.(1)(a))	2	88	91
Low Enriched Uranium Fuel (1.A.(1)(b))	3	70	21
Limited Operations (1.A.(2)(a))	1	3	22
Gas Centrifuge Enrichment Demonstration (1.A.(2)(b))	0	0	0
Hot Cell (and others) (1.A.(2)(c))	0	0	0
Uranium Enrichment (1.E.)	1	16	23
UF_6 Conversion and Deconversion (2.A.(1))	1	12	7
Total	8	189	164

In FY 2024, the total remaining amount of the proposed annual fees that the NRC estimates to be recovered, $24.9 million, is attributable to safety activities, safeguards activities, and the LLW surcharge. For FY 2024, the total budgeted resources proposed to be recovered as annual fees for safety activities are approximately $13.1 million. To calculate the annual fee, the NRC allocates this amount to each fee category based on its percentage of the total regulatory effort for safety activities. Similarly, the NRC allocates the budgeted resources that the NRC estimates to be recovered as annual fees for safeguards activities, $11.4 million, to each fee category based on its percentage of the total regulatory effort for safeguards activities. Finally, the fuel facilities fee class portion of the LLW surcharge—$0.4 million—is allocated to each fee category based on its percentage of the total regulatory effort for both safety and safeguards activities. The proposed annual fee per licensee is then calculated by dividing the estimated total allocated budgeted resources for the fee category by the number of licensees in that fee category. The proposed annual fee for each facility is summarized in table X.

TABLE X—ANNUAL FEES FOR FUEL FACILITIES

[Actual dollars]

Facility type (fee category)	FY 2023 final annual fee	FY 2024 proposed annual fee
High Enriched Uranium Fuel (1.A.(1)(a))	$5,156,000	$6,307,000
Low Enriched Uranium Fuel (1.A.(1)(b))	1,747,000	2,138,000
Facilities with limited operations (1.A.(2)(a))	807,000	1,762,000
Gas Centrifuge Enrichment Demonstration (1.A.(2)(b))	N/A	N/A
Hot Cell (and others) (1.A.(2)(c))	N/A	N/A
Uranium Enrichment (1.E.)	2,247,000	2,748,000
UF_6 Conversion and Deconversion (2.A.(1))	1,095,000	1,339,000

d. Uranium Recovery Facilities

The NRC proposes to collect $0.3 million in annual fees from the uranium recovery facilities fee class in FY 2024, as shown in table XI. The FY 2023 uranium recovery facilities fees are shown for comparison purposes.

TABLE XI—ANNUAL FEE SUMMARY CALCULATIONS FOR URANIUM RECOVERY FACILITIES

[Dollars in millions]

Summary fee calculations	FY 2023 final rule	FY 2024 proposed rule
Total budgeted resources	$0.5	$0.7
Less estimated 10 CFR part 170 receipts	−0.3	−0.4
Net 10 CFR part 171 resources	0.2	0.3
Allocated generic transportation	N/A	N/A
Billing adjustments	0.0	0.0
Total required annual fee recovery	$0.2	$0.3

In comparison to FY 2023, the FY 2024 proposed annual fee for the non-DOE licensee in the uranium recovery facilities fee class is increasing primarily due to a rise in budgeted resources attributed to licensing reviews associated with one licensed uranium recovery facility and two licensed, but not yet constructed, uranium recovery facilities.

The NRC regulates DOE's Title I and Title II activities under the Uranium Mill Tailings Radiation Control Act (UMTRCA).[3] The proposed annual fee assessed to DOE includes the resources specifically budgeted for the NRC's UMTRCA Title I and Title II activities, as well as 10 percent of the remaining budgeted resources for this fee class. The NRC described the overall methodology for determining fees for UMTRCA in the FY 2002 fee rule (67 FR 42612; June 24, 2002), and the NRC continues to use this methodology. DOE's UMTRCA proposed annual fee is increasing compared to FY 2023 primarily due to a rise in budgeted resources needed to conduct generic work that the staff will be performing to resolve the following: (1) issues associated with abandoned uranium mine waste cleanups and the potential waste disposal on or near uranium mill tailings sites including existing DOE sites under NRC oversight; (2) coordination on license termination strategies for sites; and (3) performance issues relating to existing cover systems at mill tailings sites. The proposed annual fee is partially offset by a rise in the 10 CFR part 170 estimated billings for the anticipated workload increases at various DOE UMTRCA sites. The NRC assesses the remaining 90 percent of its budgeted resources to the remaining licensee in this fee class, as described in the work papers, which is reflected in table XII.

[3] Congress established the two programs, Title I and Title II, under UMTRCA to protect the public and the environment from hazards associated with uranium milling. The UMTRCA Title I program is for remedial action at abandoned mill tailings sites where tailings resulted largely from production of uranium for weapons programs. The NRC also regulates DOE's UMTRCA Title II program, which is directed toward uranium mill sites licensed by the NRC or Agreement States in or after 1978.

TABLE XII—COSTS RECOVERED THROUGH ANNUAL FEES; URANIUM RECOVERY FACILITIES FEE CLASS

[Actual dollars]

Summary of costs	FY 2023 final annual fee	FY 2024 proposed annual fee
DOE Annual Fee Amount (UMTRCA Title I and Title II) General Licenses:		
UMTRCA Title I and Title II budgeted resources less 10 CFR part 170 receipts	$142,181	$264,606
10 percent of generic/other uranium recovery budgeted resources	5,798	6,028
10 percent of uranium recovery fee-relief adjustment	N/A	N/A
Total Annual Fee Amount for DOE (rounded)	148,000	271,000
Annual Fee Amount for Other Uranium Recovery Licenses:		
90 percent of generic/other uranium recovery budgeted resources less the amounts specifically budgeted for UMTRCA Title I and Title II activities	52,185	54,255
90 percent of uranium recovery fee-relief adjustment	N/A	N/A
Total Annual Fee Amount for Other Uranium Recovery Licensees	52,185	54,255

Further, for any non-DOE licensees, the NRC will continue using a matrix to determine the effort levels associated with conducting generic regulatory actions for the different licensees in the uranium recovery facilities fee class; this is similar to the NRC's approach for fuel facilities, described previously. The matrix methodology for uranium recovery licensees first identifies the licensee categories included within this fee class (excluding DOE). These categories are conventional uranium mills and heap leach facilities, uranium *in situ* recovery (ISR) and resin ISR facilities, and mill tailings disposal facilities. The matrix identifies the types of operating activities that support and benefit these licensees, along with each activity's relative weight (see the work papers). Currently, there is only one remaining non-DOE licensee, which is a basic ISR facility. table XIII displays the benefit factors for the non-DOE licensee in that fee category.

TABLE XIII—BENEFIT FACTORS FOR URANIUM RECOVERY LICENSES, 2024

Fee category	Number of licensees	Benefit factor per licensee	Total value	Benefit factor percent total
Conventional and Heap Leach mills (2.A.(2)(a))	0	.....	.....	0
Basic *In Situ* Recovery facilities (2.A.(2)(b))	1	190	190	100
Expanded *In Situ* Recovery facilities (2.A.(2)(c))	0	.....	.....	0
Section 11e.(2) disposal incidental to existing tailings sites (2.A.(4))	0	.....	.....	0
Total	1	190	190	100

The FY 2024 proposed annual fee for the remaining non-DOE licensee is calculated by allocating 100 percent of the budgeted resources, as summarized in table XIV.

TABLE XIV—ANNUAL FEES FOR URANIUM RECOVERY LICENSEES

[Other than DOE]

[Actual dollars]

Facility type (fee category)	FY 2023 final annual fee	FY 2024 proposed annual fee
Conventional and Heap Leach mills (2.A.(2)(a))	N/A	N/A
Basic *In Situ* Recovery facilities (2.A.(2)(b))	$52,200	$54,300
Expanded *In Situ* Recovery facilities (2.A.(2)(c))	N/A	N/A
Section 11e.(2) disposal incidental to existing tailings sites (2.A.(4))	N/A	N/A

e. Non-Power Production or Utilization Facilities

The NRC proposes to collect $0.293 million in annual fees from the non-power production or utilization facilities fee class in FY 2024, as shown in table XV. The FY 2023 non-power production or utilization facilities fees are shown for comparison purposes.

TABLE XV—ANNUAL FEE SUMMARY CALCULATIONS FOR NON-POWER PRODUCTION OR UTILIZATION FACILITIES

[Dollars in millions]

Summary fee calculations	FY 2023 final rule	FY 2024 proposed rule
Total budgeted resources	$5.115	$4.876
Less estimated 10 CFR part 170 receipts	−4.869	−4.648
Net 10 CFR part 171 resources	0.246	0.228
Allocated generic transportation	0.040	0.050
Billing adjustments	0.003	0.015
Total required annual fee recovery	0.289	0.293
Total non-power production or utilization facilities licenses	3	3
Total annual fee per license (rounded)	$0.0963	$0.0977

In comparison to FY 2023, the FY 2024 proposed annual fee for the non-power production or utilization facilities fee class is increasing, as discussed in the following paragraphs.

In FY 2024, the budgeted resources decreased primarily due to a reduction in medical radioisotope production facilities workload primarily due to a delay with the SHINE Technologies LLC's (SHINE) operating license application for a medical radioisotope production facility and a delay in the construction schedule. The offset to the decline in budgetary resources is the rise in the fully-costed FTE rate compared to FY 2023 due to an increase in salaries and benefits.

The 10 CFR part 170 estimated billings associated with the current fleet of operating non-power production or utilization facilities licensees subject to annual fees have declined compared to FY 2023 due to a reduction in workload for license amendment activities associated with the anticipated shutdown of the General Electric Hitachi Vallecitos Nuclear Center in FY 2024. The 10 CFR part 170 estimated billings with respect to medical radioisotope production facilities and advanced research and test reactors have declined when compared with FY 2023 primarily due to the following: (1) a reduction in staff hours due to the delay with SHINE's operating license application and a delay in the construction schedule; and (2) the completion of the staff's safety review of the Kairos Power, LLC's (Kairos) application for a permit to construct the Hermes 1 test reactor. This decline in 10 CFR part 170 estimated billings is offset due to the following: (1) the staff's review of the Kairos Hermes 2 application for a permit to construct two test reactors; and (2) conducting pre-application meetings due to the anticipated submission of several license applications.

Furthermore, the proposed increase in the annual fee is also affected by these contributing factors: (1) an increase in the 10 CFR part 171 billing adjustment due to the timing of invoices in FY 2023; and (2) an increase in the generic transportation surcharge due to an increase in the generic transportation budgeted resources for the non-power production or utilization facilities fee class.

The annual fee recovery amount is divided equally among the three non-power production or utilization facilities licensees subject to annual fees and results in an FY 2024 proposed annual fee of $97,700 for each licensee.

f. Rare Earth

In FY 2024, the NRC has allocated approximately $0.2 million in budgeted resources to this fee class; however, because all the budgeted resources will be recovered through service fees assessed under 10 CFR part 170, the NRC is not proposing to assess and collect annual fees in FY 2024 for this fee class.

g. Materials Users

The NRC proposes to collect $46.2 million in annual fees from materials users licensed under 10 CFR parts 30, 40, and 70 in FY 2023, as shown in table XVI. The FY 2023 materials users fees are shown for comparison purposes.

TABLE XVI—ANNUAL FEE SUMMARY CALCULATIONS FOR MATERIALS USERS

[Dollars in millions]

Summary fee calculations	FY 2023 final rule	FY 2024 proposed rule
Total budgeted resources for licensees not regulated by Agreement States	$38.7	$44.3
Less estimated 10 CFR part 170 receipts	−1.2	−0.8
Net 10 CFR part 171 resources	37.5	43.5
Allocated generic transportation	2.0	2.5
LLW surcharge	0.1	0.1
Billing adjustments	0.0	0.1
Total required annual fee recovery	$39.7	$46.2

The formula for calculating 10 CFR part 171 annual fees for the various categories of materials users is described in detail in the work papers. Generally, the calculation results in a single annual fee that includes 10 CFR part 170 costs, such as amendments, renewals, inspections, and other licensing actions specific to individual fee categories.

The total annual fee recovery of $46.2 million for FY 2024 shown in table XVI

consists of $36.4 million for general costs, $9.7 million for inspection costs, and $0.1 million for LLW costs. To equitably and fairly allocate the $46.2 million required to be collected among approximately 2,400 diverse materials users licensees, the NRC continues to calculate the annual fees for each fee category within this class based on the 10 CFR part 170 application fees and estimated inspection costs for each fee category. Because the application fees and inspection costs are indicative of the complexity of the materials license, this approach is the methodology for allocating the generic and other regulatory costs to the diverse fee categories. This fee calculation method also considers the inspection frequency (priority), which is indicative of the safety risk and resulting regulatory costs associated with the categories of licenses.

In comparison to FY 2023, the FY 2024 proposed annual fees are increasing for all fee categories within the materials users fee class, of which 25 fee categories are increasing by approximately 14 percent to 16 percent, and 27 fee categories are increasing by approximately 17 percent to 25 percent primarily due to an increase in the budgeted resources. The budgeted resources increased due to the following: (1) an increase in licensing and oversight workload, including the expected reviews of exempt distribution and sealed source device applications, updating licensing guidance, and the development of a regulatory guide on veterinary issues; (2) hiring actions to double encumber and train health physics staff to ensure an appropriate pipeline and knowledge management for future agency mission related activities; (3) support for rulemaking activities; (4) support for materials research activities; and (5) an increase in the fully-costed FTE rate compared to FY 2023 due to an increase in salaries and benefits.

In addition, the FY 2024 proposed annual fees are increasing due to the following: (1) an increase in generic transportation costs for materials users; (2) a decrease in the 10 CFR part 170 estimated billings for new licensing applications; (3) a decrease of 53 materials users licensees from FY 2023; and (4) an increase in the 10 CFR part 171 billing adjustment due to the timing of invoices issued in FY 2023.

A constant multiplier is established to recover the total general costs (including allocated generic transportation costs) of $36.4 million. To derive the constant multiplier, the general cost amount is divided by the sum of all fee categories (application fee plus the inspection fee divided by inspection priority) then multiplied by the number of licensees. This calculation results in a constant multiplier of 1.26 for FY 2024. The average inspection cost is the average inspection hours for each fee category multiplied by the professional hourly rate of $321. The inspection priority is the interval between routine inspections, expressed in years. The inspection multiplier is established to recover the $9.7 million in inspection costs. To derive the inspection multiplier, the inspection costs amount is divided by the sum of all fee categories (inspection fee divided by inspection priority) then multiplied by the number of licensees. This calculation results in an inspection multiplier of 1.72 for FY 2024. The unique category costs are any special costs that the NRC has budgeted for a specific category of licenses. Please see the work papers for more detail about this classification.

The proposed annual fee being assessed to each licensee also takes into account a share of approximately $0.1 million in LLW surcharge costs allocated to the materials users fee class (see Table IV, ''Allocation of LLW Surcharge, FY 2024,'' of this document). The proposed annual fee for each fee category is shown in the proposed revision to § 171.16(d).

h. Transportation

The NRC proposes to collect $2.2 million in annual fees to recover generic transportation budgeted resources in FY 2024, as shown in table XVII. The FY 2023 fees are shown for comparison purposes.

TABLE XVII—ANNUAL FEE SUMMARY CALCULATIONS FOR TRANSPORTATION

[Dollars in millions]

Summary fee calculations	FY 2023 final rule	FY 2024 proposed rule
Total budgeted resources	$11.1	$13.2
Less estimated 10 CFR part 170 receipts	−3.4	−3.5
Net 10 CFR part 171 resources	7.7	9.7
Less generic transportation resources	−6.0	−7.5
Billing adjustments	0.0	0.0
Total required annual fee recovery	$1.7	$2.2

In comparison to FY 2023, the FY 2024 proposed annual fee for the transportation fee class is increasing primarily due to an increase in the budgeted resources. This increase is partially offset by: (1) a rise in the distribution of the generic transportation resources allocated to other fee classes; and (2) an increase in the 10 CFR part 170 estimated billings.

In FY 2024, the budgeted resources increased primarily to support: (1) environmental reviews and licensing of transportation packages for ATF, the anticipated licensing review of one transportable microreactor application, other advanced reactors fuels, and microreactors; (2) rulemaking activities; and (3) a rise in the fully-costed FTE rate compared to FY 2023 due to an increase in salaries and benefits.

The increase in the proposed annual fee is partially offset by a rise in the distribution of generic transportation resources allocated to respective other fee classes resulting from additional number of CoCs for 2024.

Furthermore, the proposed annual fee is also partially offset by an increase in the 10 CFR part 170 estimated billings related to the review of new and amended packages.

Consistent with the policy established in the NRC's FY 2006 final fee rule (71 FR 30722; May 30, 2006), the NRC recovers generic transportation costs unrelated to DOE by including those costs in the annual fees for licensee fee classes. The NRC continues to assess a separate annual fee under § 171.16, fee category 18.A., for DOE transportation activities. The amount of the allocated generic resources is calculated by

multiplying the percentage of total CoCs used by each fee class (and DOE) by the total generic transportation resources to be recovered.

This resource distribution to the licensee fee classes and DOE is shown in table XVIII. Note that for the non-power production or utilization facilities fee class, the NRC allocates the distribution to only those licensees that are subject to annual fees. Although five CoCs benefit the entire non-power production or utilization facilities fee class, only three out of 30 operating non-power production or utilization facilities licensees are subject to annual fees. Consequently, the number of CoCs used to determine the proportion of generic transportation resources allocated to annual fees for the non-power production or utilization facilities fee class has been adjusted to 0.5 so these licensees are charged a fair and equitable portion of the total fees (see the work papers).

TABLE XVIII—DISTRIBUTION OF TRANSPORTATION RESOURCES, FY 2024

[Dollars in millions]

Licensee fee class/DOE	Number of CoCs benefiting fee class or DOE	Percentage of total CoCs	Allocated generic transportation resources
Materials Users	24.0	25.4	$2.5
Operating Power Reactors	6.0	6.4	0.6
Spent Fuel Storage/Reactor Decommissioning	19.0	20.1	1.9
Non-Power Production or Utilization Facilities	0.5	0.5	0.0
Fuel Facilities	24.0	25.4	2.5
Subtotal of Generic Transportation Resources	73.5	77.8	7.5
DOE	21.0	22.2	2.2
Total	94.5	100.0	9.7

The NRC assesses an annual fee to DOE based on the 10 CFR part 71 CoCs it holds. The NRC, therefore, does not allocate these DOE-related resources to other licensees' annual fees because these resources specifically support DOE.

FY 2024—Policy Change

The NRC is not proposing any policy changes for FY 2024.

FY 2024—Administrative Changes

The NRC is proposing 11 administrative changes in FY 2024:

1. *Amend §§ 2.205(i), 15.35(c), 37.27(c)(2), 73.17(m)(1), 73.57(d)(3)(i), 110.64(e), 140.7(d), 170.12(f), and 171.19(a) by clarifying payment methods.*

The NRC proposes to amend §§ 2.205(i), 15.35(c), 37.27(c)(2), 73.17(m)(1), 73.57(d)(3)(i), 110.64(e), 140.7(d), 170.12(f), and 171.19(a) to align with the U.S. Department of the Treasury's (Treasury) ''No-Cash No-Check'' policy. The Treasury encourages Federal agencies to use the most efficient, cost-effective, and best-suited collection and payment solutions. The Treasury's Bureau of the Fiscal Service provides central collection and payment services to agencies to maintain the financial integrity and operational efficiency of the Federal Government. The Treasury's Bureau of the Fiscal Service notified the NRC that the agency is expected to transition from paper-based collections to one or more offered electronic methods by September 30, 2024.

The ''No-Cash No-Check'' policy will improve timeliness of collections, thereby reducing interest/penalty/administrative fees associated with late payments, and reduce resources associated with processing paper checks. The available electronic payment options will enhance processing speed and accuracy, and adopting this policy will make consumer and business payments and remittances to agencies easier and more efficient. Accordingly, the NRC is proposing to amend §§ 2.205(i), 15.35(c), 37.27(c)(2), 73.17(m)(1), 73.57(d)(3)(i), 110.64(e), 140.7(d), 170.12(f), and 171.19(a) to revise available payment methods to remove paper forms of payment and provide that payments are to be made electronically using the methods accepted at *www.Pay.gov.*

2. *Amend table 1 in § 170.31 to add language to 7.A, 7.A.1, 7.A.2, 7.C, 7.C.1, and 7.C.2 for clarity.*

The NRC proposes to amend table 1 in § 170.31add language to 7.A., 7.A.1, 7.A.2, 7.C, 7.C.1, and 7.C.2, to clarify with respect to 10 CFR part 170 fees that these categories also include the possession and use of source material for shielding when authorized on the same license.

3. *Revise footnote 17 to table 2 in § 171.16(d) for clarity.*

The NRC proposes to revise footnote 17 in table 2 paragraph (d) in § 171.16 to clarify that with respect to annual fees, medical licensees paying fees under 7.A, 7.A.1, 7.A.2, 7.B, 7.B.1, 7.B.2, 7.C, 7.C(1), or 7.C(2) are not subject to fees under 2.B. for possession and shielding authorized on the same license.

IV. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[4] the NRC has prepared a regulatory flexibility analysis related to this proposed rule. The regulatory flexibility analysis is available as indicated in the ''Availability of Documents'' section of this document.

V. Regulatory Analysis

Under NEIMA, the NRC is required to recover, to the maximum extent practicable, approximately 100 percent of its annual budget for FY 2024 less the budget authority for excluded activities. The NRC established fee methodology guidelines for 10 CFR part 170 in 1978 and established additional fee methodology guidelines for 10 CFR part 171 in 1986. In subsequent rulemakings, the NRC has adjusted its fees without changing the underlying principles of its fee policy to ensure that the NRC continues to comply with the statutory requirements for cost recovery.

In this proposed rule, the NRC continues this longstanding approach. Therefore, the NRC did not identify any alternatives to the current fee structure guidelines and did not prepare a regulatory analysis for this proposed rule.

[4] 5 U.S.C. 603. The RFA, 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, Title II, 110 Stat. 847 (1996).

VI. Backfitting and Issue Finality

The NRC's backfitting provisions (which are found in the regulations at §§ 50.109, 70.76, 72.62, and 76.76) and issue finality provisions of 10 CFR part 52 do not apply to this proposed rule because these amendments do not require the modification of, or addition to: (1) systems, structures, components, or the design of a facility; (2) the design approval or manufacturing license for a facility; or (3) the procedures or organization required to design, construct, or operate a facility. As a result, this proposed rule does not constitute ''backfitting'' as defined in 10 CFR Ch. I or otherwise affect the issue finality of a 10 CFR part 52 approval.

VII. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC wrote this document to be consistent with the Plain Writing Act, as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31885). The NRC requests comment on this document with respect to the clarity and effectiveness of the language used.

VIII. National Environmental Policy Act

The NRC has determined that this proposed rule is the type of action described in § 51.22(c)(1). Therefore, neither an environmental impact statement nor environmental assessment has been prepared for this proposed rule.

IX. Paperwork Reduction Act

This proposed rule does not contain any new or amended collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*). Existing collections of information were approved by the Office of Management and Budget, approval number 3150–0190.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

X. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Public Law 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this proposed rule, the NRC proposes to amend the licensing, inspection, and annual fees charged to its licensees and applicants, as necessary, to recover, to the maximum extent practicable, approximately 100 percent of its annual budget for FY 2024 less the budget authority for excluded activities, as required by NEIMA. This action does not constitute the establishment of a standard that contains generally applicable requirements.

XI. Availability of Guidance

The Small Business Regulatory Enforcement Fairness Act requires all Federal agencies to prepare a written compliance guide for each rule for which the agency is required by 5 U.S.C. 604 to prepare a regulatory flexibility analysis. The NRC, in compliance with the law, prepared the ''Small Entity Compliance Guide'' for the FY 2023 fee rule. The compliance guide was developed when the NRC completed the small entity biennial review for FY 2023. The NRC plans to continue to use this compliance guide for FY 2024 and has relabeled the compliance guide to reflect the current FY. This compliance guide is available as indicated in the ''Availability of Documents'' section of this document.

XII. Public Meeting

The NRC will conduct a public meeting to describe the FY 2024 proposed rule and answer questions from the public on the proposed rule. The NRC will publish a notice of the location, time, and agenda of the meeting on the NRC's public meeting website within 10 calendar days of the meeting. Stakeholders should monitor the NRC's public meeting website for information about the public meeting at: *https://www.nrc.gov/public-involve/public-meetings/index.cfm.*

XIII. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Documents	ADAMS accession No./FR citation/web link
NUREG–1100, Volume 39, ''Congressional Budget Justification: Fiscal Year 2024'' (March 2023).	ML23069A000.
FY 2024 Proposed Rule Work Papers	ML24030A760.
OMB Circular A–25, ''User Charges''	*https://www.whitehouse.gov/wp-content/uploads/2017/11/Circular-025.pdf.*
SECY–05–0164, ''Annual Fee Calculation Method,'' dated September 15, 2005	ML052580332.
''Revision of Fee Schedules; Fee Recovery for Fiscal Year 2015,'' dated June 30, 2015	80 FR 37432.
''Variable Annual Fee Structure for Small Modular Reactors,'' dated May 24, 2016	81 FR 32617.
''Revision of Fee Schedules; Fee Recovery for FY 2023,'' dated June 15, 2023	88 FR 39120.
''Revision of Fee Schedules; 100% Fee Recovery for FY 1999,'' dated June 10, 1999	64 FR 31448.
Revision of Fee Schedules; Fee Recovery for FY 2002,'' dated June 24, 2002	67 FR 42612.
''Revision of Fee Schedules; Fee Recovery for FY 2006,'' dated May 30, 2006	71 FR 30722.
FY 2024 Regulatory Flexibility Analysis	ML23342A126.
FY 2024 U.S. Nuclear Regulatory Commission Small Entity Compliance Guide	ML23342A134.
''Plain Language in Government Writing,'' dated June 10, 1998	63 FR 31885.

List of Subjects

10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Confidential business information, Freedom of information, Environmental protection, Hazardous waste, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 15

Administrative practice and procedure, Claims, Debt collection.

10 CFR Part 37

Byproduct material, Criminal penalties, Exports, Hazardous materials

transportation, Imports, Licensed material, Nuclear materials, Penalties, Radioactive materials, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 73

Criminal penalties, Exports, Hazardous materials transportation, Imports, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 110

Administrative practice and procedure, Classified information, Criminal penalties, Exports, Intergovernmental relations, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements, Scientific equipment.

10 CFR Part 140

Insurance, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements.

10 CFR Part 170

Byproduct material, Import and export licenses, Intergovernmental relations, Non-payment penalties, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

10 CFR Part 171

Annual charges, Approvals, Byproduct material, Holders of certificates, Intergovernmental relations, Nonpayment penalties, Nuclear materials, Nuclear power plants and reactors, Registrations, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is proposing the following amendments to 10 CFR parts 2, 15, 37, 73, 110, 140, 170 and 171:

PART 2—AGENCY RULES OF PRACTICE AND PROCEDURE

■ 1. The authority citation for part 2 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 29, 53, 62, 63, 81, 102, 103, 104, 105, 161, 181, 182, 183, 184, 186, 189, 191, 234 (42 U.S.C. 2039, 2073, 2092, 2093, 2111, 2132, 2133, 2134, 2135, 2201, 2231, 2232, 2233, 2234, 2236, 2239, 2241, 2282); Energy Reorganization Act of 1974, secs. 201, 206 (42 U.S.C. 5841, 5846); Nuclear Waste Policy Act of 1982, secs. 114(f), 134, 135, 141 (42 U.S.C. 10134(f), 10154, 10155, 10161); Administrative Procedure Act (5 U.S.C. 552, 553, 554, 557, 558); National Environmental Policy Act of 1969 (42 U.S.C. 4332); 44 U.S.C. 3504 note. Section 2.205(j) also issued under 28 U.S.C. 2461 note.

■ 2. In § 2.205, revise paragraph (i) to read as follows.

§ 2.205 Civil Penalties.

* * * * *

(i) Except when payment is made after compromise or mitigation by the Department of Justice or as ordered by a court of the United States, following reference of the matter to the Attorney General for collection, payment of civil penalties imposed under section 234 of the Act are to be made payable to the U.S. Nuclear Regulatory Commission, in U.S. funds. The payments are to be made by electronic fund transfer using the electronic payment methods accepted at *www.Pay.gov.* Federal agencies may also make payments by Intra-Governmental Payment and Collection (IPAC). All payments are to be made in accordance with the specific payment instructions provided with Notices of Violation that propose civil penalties and Orders Imposing Civil Monetary Penalties.

* * * * *

PART 15—DEBT COLLECTION PROCEDURES

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

Authority: Atomic Energy Act of 1954, secs. 161, 186 (42 U.S.C. 2201, 2236); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 5 U.S.C. 5514; 26 U.S.C. 6402; 31 U.S.C. 3701, 3713, 3716, 3719, 3720A; 42 U.S.C. 664; 44 U.S.C. 3504 note; 31 CFR parts 900 through 904; 31 CFR part 285; E.O. 12146, 44 FR 42657, 3 CFR, 1979 Comp., p. 409; E.O. 12988, 61 FR 4729, 3 CFR, 1996 Comp., p. 157.

■ 4. In § 15.35, revise paragraph (c) introductory text to read as follows:

§ 15.35 Payments.

* * * * *

(c) *To whom payment is made.* Payment of a debt is to be made payable to the U.S. Nuclear Regulatory Commission. The payments are to be made in U.S. funds using the electronic payment methods accepted at *www.Pay.gov.* Federal agencies may also make payment by Intra Governmental Payment and Collection (IPAC). Payments should be made to the U.S. Nuclear Regulatory Commission unless payment is—

* * * * *

PART 37—PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2 QUANTITIES OF RADIOACTIVE MATERIAL

■ 5. The authority citation for part 37 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 53, 81, 103, 104, 147, 148, 149, 161, 182, 183, 223, 234, 274 (42 U.S.C. 2014, 2073, 2111, 2133, 2134, 2167, 2168, 2169, 2201, 2232, 2233, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); 44 U.S.C. 3504 note.

■ 6. In § 37.27, revise paragraph (c)(2) to read as follows:

§ 37.27 Requirements for criminal history records checks of individuals granted unescorted access to category 1 or category 2 quantities of radioactive material.

* * * * *

(c) * * *

(2) Fees for the processing of fingerprint checks are due upon application. Licensees shall submit payment made payable to the U.S. Nuclear Regulatory Commission. The payments are to be made in U.S. funds using the electronic payment methods accepted at *www.Pay.gov.* For guidance on making electronic payments, contact the Division of Physical and Cyber Security Policy by emailing *Crimhist.Resource@nrc.gov.* Combined payment for multiple applications is acceptable. The Commission publishes the amount of the fingerprint check application fee on the NRC's public website. (To find the current fee amount, go to the Licensee Criminal History Records Checks & Firearms Background Check information page at *https://www.nrc.gov/security/chp.html* and see the link for How do I determine how much to pay for the request?)

* * * * *

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

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

Authority: Atomic Energy Act of 1954, secs. 53, 147, 149, 161, 161A, 170D, 170E, 170H, 170I, 223, 229, 234, 1701 (42 U.S.C. 2073, 2167, 2169, 2201, 2201a, 2210d, 2210e, 2210h, 2210i, 2273, 2278a, 2282, 2297f); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); Nuclear Waste Policy Act of 1982, secs. 135, 141 (42 U.S.C. 10155, 10161); 44 U.S.C. 3504 note.

Section 73.37(b)(2) also issued under Sec. 301, Public Law 96–295, 94 Stat. 789 (42 U.S.C. 5841 note).

■ 8. In § 73.17, revise paragraph (m)(1) to read as follows:

§ 73.17 Firearms background checks for armed security personnel.

* * * * *

(m) * * *

(1) Fees for the processing of firearms background checks are due upon application. The fee for the processing of a firearms background check consists of a fingerprint fee and a NICS check fee. Licensees must submit payment with the application for the processing of fingerprints, and payment must be made payable to the U.S. Nuclear Regulatory Commission. The payments are to be made in U.S. funds using the electronic payment methods accepted at *www.Pay.gov.* Licensees can find fee information for firearms background checks on the NRC's public website at *https://www.nrc.gov/security/chp.html.*

* * * * *

■ 9. In § 73.57, revise paragraph (d)(3)(i) to read as follows:

§ 73.57 Requirements for criminal history records checks of individuals granted unescorted access to a nuclear power facility, a non-power reactor, or access to Safeguards Information.

* * * * *

(d) * * *

(3) * * *

(i) Fees for the processing of fingerprint checks are due upon application. Licensees shall submit payment with the application for the processing of fingerprints, and payment must be made payable to the U.S. Nuclear Regulatory Commission. The payments are to be made in U.S. funds using the electronic payment methods accepted at *www.Pay.gov.* (For guidance on making payments, contact the Criminal history Program, Division of Physical and Cyber Security Policy at 301–415–7513). Combined payment for multiple applications is acceptable.

* * * * *

PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

■ 10. The authority citation for part 110 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 51, 53, 54, 57, 62, 63, 64, 65, 81, 82, 103, 104, 109, 111, 121, 122, 123, 124, 126, 127, 128, 129, 133, 134, 161, 170H, 181, 182, 183, 184, 186, 187, 189, 223, 234 (42 U.S.C. 2014, 2071, 2073, 2074, 2077, 2092, 2093, 2094, 2095, 2111, 2112, 2133, 2134, 2139, 2141, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2160c, 2160d, 2201, 2210h, 2231, 2232, 2233, 2234, 2236, 2237, 2239, 2273, 2282); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); Administrative Procedure Act (5 U.S.C. 552, 553); 42 U.S.C. 2139a, 2155a; 44 U.S.C. 3504 note. Section 110.1(b) also issued under 22 U.S.C. 2403; 22 U.S.C. 2778a; 50 App. U.S.C. 2401 *et seq.*

■ 11. In § 110.64, revise paragraph (e) to read as follows:

§ 110.64 Civil penalty.

* * * * *

(e) Except when the matter has been referred to the Attorney General for collection, payment of penalties shall be made in U.S. funds using the electronic payment methods accepted at *www.Pay.gov.*

* * * * *

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

■ 12. The authority citation for part 140 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 161, 170, 223, 234 (42 U.S.C. 2201, 2210, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); 44 U.S.C. 3504 note.

■ 13. In § 140.7, revise paragraph (d) to read as follows:

§ 140.7 Fees.

* * * * *

(d) Indemnity fee payments are to made payable to the U.S. Nuclear Regulatory Commission. The payments are to be made in U.S. funds using the electronic payment methods accepted at *www.Pay.gov.* Federal agencies may also make payments by Intra-Governmental Payment and Collection (IPAC). Specific instructions for making payments may be obtained by contacting the Office of the Chief Financial Officer at 301–415–7554.

PART 170—FEES FOR FACILITIES, MATERIALS, IMPORT AND EXPORT LICENSES, AND OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

■ 14. The authority citation for part 170 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 161(w) (42 U.S.C. 2014, 2201(w)); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 42 U.S.C. 2215; 31 U.S.C. 901, 902, 9701; 44 U.S.C. 3504 note.

* * * * *

■ 15. In § 170.12, revise paragraph (f) to read as follows:

§ 170.12 Payment of Fees.

* * * * *

(f) *Method of payment.* All fee payments under this part are to be made payable to the U.S. Nuclear Regulatory Commission. The payments are to be made in U.S. funds using the electronic payment methods accepted at *www.Pay.gov.* Specific instructions for making payments may be obtained by contacting the Office of the Chief Financial Officer at 301–415–7554. In accordance with Department of the Treasury requirements, refunds will only be made upon receipt of information on the payee's financial institution and bank accounts.

* * * * *

§ 170.20 [Amended]

■ 16. In § 170.20, remove the dollar amount ''$300'' and add in its place the dollar amount ''$321''.

■ 17. In § 170.31, revise table 1 to read as follows:

§ 170.31 Schedule of fees for materials licenses and other regulatory services, including inspections, and import and export licenses.

* * * * *

TABLE 1 TO § 170.31—SCHEDULE OF MATERIALS FEES

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fees [2] [3]
1. Special nuclear material: [11]	
A. (1) Licenses for possession and use of U–235 or plutonium for fuel fabrication activities.	
(a) Strategic Special Nuclear Material (High Enriched Uranium) [6] [Program Code(s): 21213]	Full Cost.
(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel [6] [Program Code(s): 21210]	Full Cost.
(2) All other special nuclear materials licenses not included in Category 1.A. (1) which are licensed for fuel cycle activities.[6]	
(a) Facilities with limited operations [6] [Program Code(s): 21240, 21310, 21320]	Full Cost.
(b) Gas centrifuge enrichment demonstration facilities.[6] [Program Code(s): 21205]	Full Cost.
(c) Others, including hot cell facilities.[6] [Program Code(s): 21130, 21131, 21133]	Full Cost.
B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI).[6] [Program Code(s): 23200].	Full Cost.

TABLE 1 TO § 170.31—SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fees [2] [3]
C. Licenses for possession and use of special nuclear material of less than a critical mass as defined in § 70.4 of this chapter in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers.[4] Application [Program Code(s): 22140].	$1,500.
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in sealed or unsealed form in combination that would constitute a critical mass, as defined in § 70.4 of this chapter, for which the licensee shall pay the same fees as those under Category 1.A.[4] Application [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22170, 23100, 23300, 23310].	$3,000.
E. Licenses or certificates for construction and operation of a uranium enrichment facility [6] [Program Code(s): 21200]	Full Cost.
F. Licenses for possession and use of special nuclear material greater than critical mass as defined in § 70.4 of this chapter, for development and testing of commercial products, and other non-fuel-cycle activities.[4] [6] [Program Code(s): 22155].	Full Cost.
2. Source material: [11]	
A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride or for deconverting uranium hexafluoride in the production of uranium oxides for disposal.[6] [Program Code(s): 11400].	Full Cost.
(2) Licenses for possession and use of source material in recovery operations such as milling, *in situ* recovery, heap-leaching, ore buying stations, ion-exchange facilities, and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.[6]	
(a) Conventional and Heap Leach facilities [6] [Program Code(s): 11100]	Full Cost.
(b) Basic *In Situ* Recovery facilities [6] [Program Code(s): 11500]	Full Cost.
(c) Expanded *In Situ* Recovery facilities [6] [Program Code(s): 11510]	Full Cost.
(d) *In Situ* Recovery Resin facilities [6] [Program Code(s): 11550]	Full Cost.
(e) Resin Toll Milling facilities [6] [Program Code(s): 11555]	Full Cost.
(f) Other facilities [6] [Program Code(s): 11700]	Full Cost.
(3) Licenses that authorize the receipt of byproduct material, as defined in section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4) [6] [Program Code(s): 11600, 12000].	Full Cost.
(4) Licenses that authorize the receipt of byproduct material, as defined in section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2) [6] [Program Code(s): 12010].	Full Cost.
B. Licenses which authorize the possession, use, and/or installation of source material for shielding.[7] [8] Application [Program Code(s): 11210].	$1,400.
C. Licenses to distribute items containing source material to persons exempt from the licensing requirements of part 40 of this chapter. Application [Program Code(s): 11240].	$6,900.
D. Licenses to distribute source material to persons generally licensed under part 40 of this chapter. Application [Program Code(s): 11230, 11231].	$3,200.
E. Licenses for possession and use of source material for processing or manufacturing of products or materials containing source material for commercial distribution. Application [Program Code(s): 11710].	$3,100.
F. All other source material licenses. Application [Program Code(s): 11200, 11220, 11221, 11300, 11800, 11810, 11820] ...	$3,100.
3. Byproduct material: [11]	
A. Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5. Application [Program Code(s): 03211, 03212, 03213].	$15,000.
(1). Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20. Application [Program Code(s): 04010, 04012, 04014].	$20,000.
(2). Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: more than 20. Application [Program Code(s): 04011, 04013, 04015].	$25,000.
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5. Application [Program Code(s): 03214, 03215, 22135, 22162].	$4,100.
(1). Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20. Application [Program Code(s): 04110, 04112, 04114, 04116].	$5,500.
(2). Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: more than 20. Application [Program Code(s): 04111, 04113, 04115, 04117].	$6,900.
C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 1–5. Application [Program Code(s): 02500, 02511, 02513].	$6,000.
(1). Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 6–20. Application [Program Code(s): 04210, 04212, 04214].	$8,000.

TABLE 1 TO § 170.31—SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fees [2 3]
(2). Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: more than 20. Application [Program Code(s): 04211, 04213, 04215].	$10,000.
D. [Reserved]	N/A.
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units). Application [Program Code(s): 03510, 03520].	$3,700.
F. Licenses for possession and use of less than or equal to 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes. Application [Program Code(s): 03511].	$7,500.
G. Licenses for possession and use of greater than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes. Application [Program Code(s): 03521].	$71,700.
H. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter. The category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter. Application [Program Code(s): 03254, 03255, 03257].	$7,700.
I. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter. Application [Program Code(s): 03250, 03251, 03253, 03256].	$11,800.
J. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter. Application [Program Code(s): 03240, 03241, 03243].	$2,300.
K. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter. Application [Program Code(s): 03242, 03244].	$1,300.
L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 1–5. Application [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613].	$6,300.
(1) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 6–20. Application [Program Code(s): 04610, 04612, 04614, 04616, 04618, 04620, 04622].	$8,400.
(2) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: more than 20. Application [Program Code(s): 04611, 04613, 04615, 04617, 04619, 04621, 04623].	$10,500.
M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution. Application [Program Code(s): 03620].	$9,600.
N. Licenses that authorize services for other licensees, except:	
(1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3.P.; and	
(2) Licenses that authorize waste disposal services are subject to the fees specified in fee Categories 4.A., 4.B., and 4.C.[13] Application [Program Code(s): 03219, 03225, 03226].	$10,300.
O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. Number of locations of use: 1–5. Application [Program Code(s): 03310, 03320].	$11,700.
(1). Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. Number of locations of use: 6–20. Application [Program Code(s): 04310, 04312].	$15,500.
(2). Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. Number of locations of use: more than 20. Application [Program Code(s): 04311, 04313].	$19,500.
P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[9] Number of locations of use: 1–5. Application [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03130, 03140, 03220, 03221, 03222, 03800, 03810, 22130].	$7,900.
(1). All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[9] Number of locations of use: 6–20. Application [Program Code(s): 04410, 04412, 04414, 04416, 04418, 04420, 04422, 04424, 04426, 04428, 04430, 04432, 04434, 04436, 04438].	$10,600.
(2). All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[9] Number of locations of use: more than 20. Application [Program Code(s): 04411, 04413, 04415, 04417, 04419, 04421, 04423, 04425, 04427, 04429, 04431, 04433, 04435, 04437, 04439].	$13,200.
Q. Registration of a device(s) generally licensed under part 31 of this chapter.	
Registration	$2,200.
R. Possession of items or products containing radium-226 identified in § 31.12 of this chapter which exceed the number of items or limits specified in that section.[5]	
1. Possession of quantities exceeding the number of items or limits in § 31.12(a)(4) or (5) of this chapter but less than or equal to 10 times the number of items or limits specified. Application [Program Code(s): 02700].	$3,000.

TABLE 1 TO § 170.31—SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fees [2 3]
2. Possession of quantities exceeding 10 times the number of items or limits specified in § 31.12(a)(4) or (5) of this chapter. Application [Program Code(s): 02710].	$2,900.
S. Licenses for production of accelerator-produced radionuclides. Application [Program Code(s): 03210]	$16,400.
4. Waste disposal and processing: [11]	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material. Application [Program Code(s): 03231, 03233, 03236, 06100, 06101].	Full Cost.
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. Application [Program Code(s): 03234].	$8,000.
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. Application [Program Code(s): 03232].	$5,800.
5. Well logging: [11]	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies. Application [Program Code(s): 03110, 03111, 03112].	$5,300.
B. Licenses for possession and use of byproduct material for field flooding tracer studies. Licensing [Program Code(s): 03113].	Full Cost.
6. Nuclear laundries: [11]	
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material. Application [Program Code(s): 03218].	$25,600.
7. Medical licenses: [11]	
A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Number of locations of use: 1–5. Application [Program Code(s): 02300, 02310].	$12,900.
(1). Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Number of locations of use: 6–20. Application [Program Code(s): 04510, 04512].	$17,100.
(2). Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Number of locations of use: more than 20. Application [Program Code(s): 04511, 04513].	$21,300.
B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Number of locations of use: 1–5. Application [Program Code(s): 02110].	$10,000.
(1). Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Number of locations of use: 6–20. Application [Program Code(s): 04710].	$13,300.
(2). Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Number of locations of use: more than 20. Application [Program Code(s): 04711].	$16,600.
C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[10] Number of locations of use: 1–5. Application [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160].	$11,000.
(1). Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[10] Number of locations of use: 6–20. Application [Program Code(s): 04810, 04812, 04814, 04816, 04818, 04820, 04822, 04824, 04826, 04828].	$14,600.
(2). Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[10] Number of locations of use: more than 20. Application [Program Code(s): 04811,04813, 04815, 04817, 04819, 04821,04823, 04825, 04827, 04829].	$18,300.

TABLE 1 TO § 170.31—SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fees [2] [3]
8. Civil defense: [11]	
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities. Application [Program Code(s): 03710].	$3,000.
9. Device, product, or sealed source safety evaluation:	
A. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution. Application—each device.	$23,500.
B. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices. Application—each device.	$10,400.
C. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution. Application—each source.	$6,100.
D. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel. Application—each source.	$1,200.
10. Transportation of radioactive material:	
A. Evaluation of casks, packages, and shipping containers.	
1. Spent Fuel, High-Level Waste, and plutonium air packages	Full Cost.
2. Other Casks	Full Cost.
B. Quality assurance program approvals issued under part 71 of this chapter.	
1. Users and Fabricators.	
Application	$4,500.
Inspections	Full Cost.
2. Users.	
Application	$4,500.
Inspections	Full Cost.
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices).	Full Cost.
11. Review of standardized spent fuel facilities	Full Cost.
12. Special projects: Including approvals, pre-application/licensing activities, and inspections. Application [Program Code: 25110].	Full Cost.
13. A. Spent fuel storage cask Certificate of Compliance	Full Cost.
B. Inspections related to storage of spent fuel under § 72.210 of this chapter	Full Cost.
14. Decommissioning/Reclamation [11]	
A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter, including master materials licenses (MMLs). The transition to this fee category occurs when a licensee has permanently ceased principal activities. [Program Code(s): 03900, 11900, 21135, 21215, 21325, 22200].	Full Cost.
B. Site-specific decommissioning activities associated with unlicensed sites, including MMLs, regardless of whether or not the sites have been previously licensed.	Full Cost.
15. Import and Export licenses: [12]	
Licenses issued under part 110 of this chapter for the import and export only of special nuclear material, source material, tritium and other byproduct material, and the export only of heavy water, or nuclear grade graphite (fee categories 15.A. through 15.E.).	
A. Application for export or import of nuclear materials, including radioactive waste requiring Commission and Executive Branch review, for example, those actions under § 110.40(b) of this chapter. Application—new license, or amendment; or license exemption request.	N/A.
B. Application for export or import of nuclear material, including radioactive waste, requiring Executive Branch review, but not Commission review. This category includes applications for the export and import of radioactive waste and requires the NRC to consult with domestic host state authorities (*i.e.,* Low-Level Radioactive Waste Compact Commission, the U.S. Environmental Protection Agency, etc.). Application—new license, or amendment; or license exemption request.	N/A.
C. Application for export of nuclear material, for example, routine reloads of low enriched uranium reactor fuel and/or natural uranium source material requiring the assistance of the Executive Branch to obtain foreign government assurances. Application—new license, or amendment; or license exemption request.	N/A.
D. Application for export or import of nuclear material not requiring Commission or Executive Branch review, or obtaining foreign government assurances. Application—new license, or amendment; or license exemption request.	N/A.
E. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and, therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign government authorities. Minor amendment.	N/A.
Licenses issued under part 110 of this chapter for the import and export only of Category 1 and Category 2 quantities of radioactive material listed in appendix P to part 110 of this chapter (fee categories 15.F. through 15.R.).	
Category 1 (Appendix P, 10 CFR Part 110) Exports:	
F. Application for export of appendix P Category 1 materials requiring Commission review (*e.g.,* exceptional circumstance review under § 110.42(e)(4) of this chapter) and to obtain one government-to-government consent for this process. For additional consent see fee category 15.I. Application—new license, or amendment; or license exemption request.	N/A.
G. Application for export of appendix P Category 1 materials requiring Executive Branch review and to obtain one government-to-government consent for this process. For additional consents see fee category 15.I. Application—new license, or amendment; or license exemption request.	N/A.

TABLE 1 TO § 170.31—SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fees [2] [3]
H. Application for export of appendix P Category 1 materials and to obtain one government-to-government consent for this process. For additional consents see fee category 15.I. Application—new license, or amendment; or license exemption request.	N/A.
I. Requests for each additional government-to-government consent in support of an export license application or active export license. Application—new license, or amendment; or license exemption request.	N/A.
Category 2 (Appendix P, 10 CFR Part 110) Exports:	
J. Application for export of appendix P Category 2 materials requiring Commission review (*e.g.,* exceptional circumstance review under § 110.42(e)(4) of this chapter). Application—new license, or amendment; or license exemption request.	N/A.
K. Applications for export of appendix P Category 2 materials requiring Executive Branch review. Application—new license, or amendment; or license exemption request.	N/A.
L. Application for the export of Category 2 materials. Application—new license, or amendment; or license exemption request.	N/A.
M. [Reserved]	N/A.
N. [Reserved]	N/A.
O. [Reserved]	N/A.
P. [Reserved]	N/A.
Q. [Reserved]	N/A.
Minor Amendments (Category 1 and 2, Appendix P, 10 CFR Part 110, Export):	
R. Minor amendment of any active export license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and, therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign authorities. Minor amendment.	N/A.
16. Reciprocity: Agreement State licensees who conduct activities under the reciprocity provisions of § 150.20 of this chapter. Application.	$3,900.
17. Master materials licenses of broad scope issued to Government agencies. Application [Program Code(s): 03614]	Full Cost.
18. Department of Energy.	
A. Certificates of Compliance. Evaluation of casks, packages, and shipping containers (including spent fuel, high-level waste, and other casks, and plutonium air packages).	Full Cost.
B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities	Full Cost.

[1] *Types of fees*—Separate charges, as shown in the schedule, will be assessed for pre-application consultations and reviews; applications for new licenses, approvals, or license terminations; possession-only licenses; issuances of new licenses and approvals; certain amendments and renewals to existing licenses and approvals; safety evaluations of sealed sources and devices; generally licensed device registrations; and certain inspections. The following guidelines apply to these charges:

(1) *Application and registration fees.* Applications for new materials licenses and export and import licenses; applications to reinstate expired, terminated, or inactive licenses, except those subject to fees assessed at full costs; applications filed by Agreement State licensees to register under the general license provisions of 10 CFR 150.20; and applications for amendments to materials licenses that would place the license in a higher fee category or add a new fee category must be accompanied by the prescribed application fee for each category.

(i) Applications for licenses covering more than one fee category of special nuclear material or source material must be accompanied by the prescribed application fee for the highest fee category.

(ii) Applications for new licenses that cover both byproduct material and special nuclear material in sealed sources for use in gauging devices will pay the appropriate application fee for fee category 1.C. only.

(2) *Licensing fees.* Fees for reviews of applications for new licenses, renewals, and amendments to existing licenses, pre-application consultations and other documents submitted to the NRC for review, and project manager time for fee categories subject to full cost fees are due upon notification by the Commission in accordance with § 170.12(b).

(3) *Amendment fees.* Applications for amendments to export and import licenses must be accompanied by the prescribed amendment fee for each license affected. An application for an amendment to an export or import license or approval classified in more than one fee category must be accompanied by the prescribed amendment fee for the category affected by the amendment, unless the amendment is applicable to two or more fee categories, in which case the amendment fee for the highest fee category would apply.

(4) *Inspection fees.* Inspections resulting from investigations conducted by the Office of Investigations and nonroutine inspections that result from third-party allegations are not subject to fees. Inspection fees are due upon notification by the Commission in accordance with § 170.12(c).

(5) *Generally licensed device registrations under 10 CFR 31.5.* Submittals of registration information must be accompanied by the prescribed fee.

[2] Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under title 10 of the *Code of Federal Regulations* (*e.g.,* 10 CFR 30.11, 40.14, 70.14, 73.5, and any other sections in effect now or in the future), regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form. In addition to the fee shown, an applicant may be assessed an additional fee for sealed source and device evaluations as shown in fee categories 9.A. through 9.D.

[3] Full cost fees will be determined based on the professional staff time multiplied by the appropriate professional hourly rate established in § 170.20 in effect when the service is provided, and the appropriate contractual support services expended.

[4] Licensees paying fees under categories 1.A., 1.B., and 1.E. are not subject to fees under categories 1.C., 1.D. and 1.F. for sealed sources authorized in the same license, except for an application that deals only with the sealed sources authorized by the license.

[5] Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

[6] Licensees subject to fees under fee categories 1.A., 1.B., 1.E., or 2.A. must pay the largest applicable fee and are not subject to additional fees listed in this table.

[7] Licensees paying fees under 3.C., 3.C.1, or 3.C.2 are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[8] Licensees paying fees under 7.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[9] Licensees paying fees under 3.N. are not subject to paying fees under 3.P., 3.P.1, or 3.P.2 for calibration or leak testing services authorized on the same license.

[10] Licensees paying fees under 7.B., 7.B.1, or 7.B.2 are not subject to paying fees under 7.C., 7.C.1, or 7.C.2. for broad scope licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices authorized on the same license.

[11] A materials license (or part of a materials license) that transitions to fee category 14.A is assessed full-cost fees under 10 CFR part 170, but is not assessed an annual fee under 10 CFR part 171. If only part of a materials license is transitioned to fee category 14.A, the licensee may be charged annual fees (and any applicable 10 CFR part 170 fees) for other activities authorized under the license that are not in decommissioning status.

[12] Because the resources for import and export licensing activities are identified as a fee-relief activity to be excluded from the fee-recoverable budget, import and export licensing actions will not incur fees.

[13] Licensees paying fees under 4.A., 4.B. or 4.C. are not subject to paying fees under 3.N. licenses that authorize services for other licensees authorized on the same license.

PART 171—ANNUAL FEES FOR REACTOR LICENSES AND FUEL CYCLE LICENSES AND MATERIALS LICENSES, INCLUDING HOLDERS OF CERTIFICATES OF COMPLIANCE, REGISTRATIONS, AND QUALITY ASSURANCE PROGRAM APPROVALS AND GOVERNMENT AGENCIES LICENSED BY THE NRC

■ 18. The authority citation for part 171 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 161(w), 223, 234 (42 U.S.C. 2014, 2201(w), 2273, 2282); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 42 U.S.C. 2215; 44 U.S.C. 3504 note.

■ 19. In § 171.15, revise paragraphs (b)(1), (b)(2) introductory text, (c)(1), (c)(2) introductory text, and paragraph (e) to read as follows:

§ 171.15 Annual fees: Non-power production or utilization licenses, reactor licenses, and independent spent fuel storage licenses.

* * * * *

(b)(1) The FY 2024 annual fee for each operating power reactor that must be collected by September 30, 2024, is $5,488,000.

(2) The FY 2024 annual fees are comprised of a base annual fee for power reactors licensed to operate, a base spent fuel storage/reactor decommissioning annual fee and associated additional charges. The activities comprising the spent fuel storage/reactor decommissioning base annual fee are shown in paragraphs (c)(2)(i) and (ii) of this section. The activities comprising the FY 2024 base annual fee for operating power reactors are as follows:

* * * * *

(c)(1) The FY 2024 annual fee for each power reactor holding a 10 CFR part 50 license or combined license issued under 10 CFR part 52 that is in a decommissioning or possession-only status and has spent fuel onsite, and for each independent spent fuel storage 10 CFR part 72 licensee who does not hold a 10 CFR part 50 license or a 10 CFR part 52 combined license, is $330,000.

(2) The FY 2024 annual fee is comprised of a base spent fuel storage/reactor decommissioning annual fee (which is also included in the operating power reactor annual fee shown in paragraph (b) of this section). The activities comprising the FY 2024 spent fuel storage/reactor decommissioning rebaselined annual fee are:

* * * * *

(e) The FY 2024 annual fee for licensees authorized to operate one or more non-power production or utilization facilities under a single 10 CFR part 50 license, unless the reactor is exempted from fees under § 171.11(b), is $97,700.

■ 20. In § 171.16, revise paragraphs (b) introductory text, (c), and (d) to read as follows:

§ 171.16 Annual fees: Materials licensees, holders of certificates of compliance, holders of sealed source and device registrations, holders of quality assurance program approvals, and government agencies licensed by the NRC.

* * * * *

(b) The FY 2024 annual fee is comprised of a base annual fee and associated additional charges. The base FY 2024 annual fee is the sum of budgeted costs for the following activities:

* * * * *

(c) A licensee who is required to pay an annual fee under this section, in addition to 10 CFR part 72 licenses, may qualify as a small entity. If a licensee qualifies as a small entity and provides the Commission with the proper certification along with its annual fee payment, the licensee may pay reduced annual fees as shown in table 1 to this paragraph (c). Failure to file a small entity certification in a timely manner could result in the receipt of a delinquent invoice requesting the outstanding balance due and/or denial of any refund that might otherwise be due. The small entity fees are as follows:

TABLE 1 TO PARAGRAPH (c)

NRC small entity classification	Maximum annual fee per licensed category
Small Businesses Not Engaged in Manufacturing (Average gross receipts over the last 5 completed fiscal years):	
$555,000 to $8 million	$5,200
Less than $555,000	1,000
Small Not-For-Profit Organizations (Annual Gross Receipts):	
$555,000 to $8 million	5,200
Less than $555,000	1,000
Manufacturing Entities that Have an Average of 500 Employees or Fewer:	
35 to 500 employees	5,200
Fewer than 35 employees	1,000
Small Governmental Jurisdictions (Including publicly supported educational institutions) (Population):	
20,000 to 49,999	5,200
Fewer than 20,000	1,000
Educational Institutions that are not State or Publicly Supported, and have 500 Employees or Fewer:	
35 to 500 employees	5,200
Fewer than 35 employees	1,000

(d) The FY 2024 annual fees for materials licensees and holders of certificates, registrations, or approvals subject to fees under this section are shown in table 2 to this paragraph (d):

TABLE 2 TO PARAGRAPH (d)—SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC

[See footnotes at end of table]

Category of materials licenses	Annual fees [1] [2] [3]
1. Special nuclear material:	
A. (1) Licenses for possession and use of U–235 or plutonium for fuel fabrication activities.	.....
(a) Strategic Special Nuclear Material (High Enriched Uranium) [15] [Program Code(s): 21213]	$6,307,000
(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel [15] [Program Code(s): 21210]	2,138,000
(2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities.	.....
(a) Facilities with limited operations [15] [Program Code(s): 21310, 21320]	1,762,000
(b) Gas centrifuge enrichment demonstration facility [15] [Program Code(s): 21205]	N/A
(c) Others, including hot cell facility [15] [Program Code(s): 21130, 21131, 21133]	N/A
B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI) [11] [15] [Program Code(s): 23200]	N/A
C. Licenses for possession and use of special nuclear material of less than a critical mass, as defined in § 70.4 of this chapter, in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers. [Program Code(s): 22140]	3,400
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in sealed or unsealed form in combination that would constitute a critical mass, as defined in § 70.4 of this chapter, for which the licensee shall pay the same fees as those under Category 1.A. [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22170, 23100, 23300, 23310]	9,600
E. Licenses or certificates for the operation of a uranium enrichment facility [15] [Program Code(s): 21200]	2,748,000
F. Licenses for possession and use of special nuclear materials greater than critical mass, as defined in § 70.4 of this chapter, for development and testing of commercial products, and other non-fuel cycle activities.[4] [Program Code: 22155]	5,900
2. Source material:	
A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride or for deconverting uranium hexafluoride in the production of uranium oxides for disposal.[15] [Program Code: 11400]	1,339,000
(2) Licenses for possession and use of source material in recovery operations such as milling, in situ recovery, heap-leaching, ore buying stations, ion-exchange facilities and in-processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.	.....
(a) Conventional and Heap Leach facilities.[15] [Program Code(s): 11100]	N/A
(b) Basic *In Situ* Recovery facilities.[15] [Program Code(s): 11500]	54,300
(c) Expanded *In Situ* Recovery facilities [15] [Program Code(s): 11510]	N/A
(d) *In Situ* Recovery Resin facilities.[15] [Program Code(s): 11550]	[5] N/A
(e) Resin Toll Milling facilities.[15] [Program Code(s): 11555]	[5] N/A
(f) Other facilities [6] [Program Code(s): 11700]	[5] N/A
(3) Licenses that authorize the receipt of byproduct material, as defined in section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4)[15] [Program Code(s): 11600, 12000]	[5] N/A
(4) Licenses that authorize the receipt of byproduct material, as defined in section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2)[15] [Program Code(s): 12010]	N/A
B. Licenses which authorize the possession, use, and/or installation of source material for shielding.[16] [17] Application [Program Code(s): 11210]	3,700
C. Licenses to distribute items containing source material to persons exempt from the licensing requirements of part 40 of this chapter. [Program Code: 11240]	14,100
D. Licenses to distribute source material to persons generally licensed under part 40 of this chapter. [Program Code(s): 11230 and 11231]	7,000
E. Licenses for possession and use of source material for processing or manufacturing of products or materials containing source material for commercial distribution. [Program Code: 11710]	8,900
F. All other source material licenses. [Program Code(s): 11200, 11220, 11221, 11300, 11800, 11810, 11820]	11,800
3. Byproduct material:	
A. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5. [Program Code(s): 03211, 03212, 03213]	37,900
(1). Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20. [Program Code(s): 04010, 04012, 04014]	50,400
(2). Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: more than 20. [Program Code(s): 04011, 04013, 04015]	63,000

TABLE 2 TO PARAGRAPH (d)—SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1] [2] [3]
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5. [Program Code(s): 03214, 03215, 22135, 22162]	12,900
(1). Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20. [Program Code(s): 04110, 04112, 04114, 04116]	17,100
(2). Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: more than 20. [Program Code(s): 04111, 04113, 04115, 04117]	21,300
C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4) of this chapter. Number of locations of use: 1–5. [Program Code(s): 02500, 02511, 02513]	12,900
(1). Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 6–20. [Program Code(s): 04210, 04212, 04214]	17,100
(2). Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: more than 20. [Program Code(s): 04211, 04213, 04215]	23,500
D. [Reserved]	[5] N/A
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units). [Program Code(s): 03510, 03520]	12,200
F. Licenses for possession and use of less than or equal to 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes. [Program Code(s): 03511]	12,400
G. Licenses for possession and use of greater than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes. [Program Code(s): 03521]	105,300
H. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter. [Program Code(s): 03254, 03255, 03257]	12,900
I. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter. [Program Code(s): 03250, 03251, 03253, 03256]	19,000
J. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter. [Program Code(s): 03240, 03241, 03243]	4,900
K. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter. [Program Code(s): 03242, 03244]	3,600
L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 1–5. [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613]	17,600
(1) Licenses of broad scope for possession and use of product material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 6–20. [Program Code(s): 04610, 04612, 04614, 04616, 04618, 04620, 04622]	23,300
(2) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: more than 20. [Program Code(s): 04611, 04613, 04615, 04617, 04619, 04621, 04623]	29,100
M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution. [Program Code(s): 03620]	18,400
N. Licenses that authorize services for other licensees, except: (1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3.P.; and (2) Licenses that authorize waste disposal services are subject to the fees specified in fee categories 4.A., 4.B., and 4.C.[21] [Program Code(s): 03219, 03225, 03226]	20,200

TABLE 2 TO PARAGRAPH (d)—SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1] [2] [3]
O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license. Number of locations of use: 1–5. [Program Code(s): 03310, 03320]	43,900
(1). Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license. Number of locations of use: 6–20. [Program Code(s): 04310, 04312]	58,300
(2). Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license. Number of locations of use: more than 20. [Program Code(s): 04311, 04313]	73,100
P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[18] Number of locations of use: 1–5. [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03140, 03130, 03220, 03221, 03222, 03800, 03810, 22130]	14,500
(1). All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[18] Number of locations of use: 6–20. [Program Code(s): 04410, 04412, 04414, 04416, 04418, 04420, 04422, 04424, 04426, 04428, 04430, 04432, 04434, 04436, 04438]	19,500
(2). All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[18] Number of locations of use: more than 20. [Program Code(s): 04411, 04413, 04415, 04417, 04419, 04421, 04423, 04425, 04427, 04429, 04431, 04433, 04435, 04437, 04439]	24,300
Q. Registration of devices generally licensed under part 31 of this chapter	[13] N/A
R. Possession of items or products containing radium–226 identified in § 31.12 of this chapter which exceed the number of items or limits specified in that section:[14]	.....
(1). Possession of quantities exceeding the number of items or limits in § 31.12(a)(4), or (5) of this chapter but less than or equal to 10 times the number of items or limits specified. [Program Code(s): 02700]	8,400
(2). Possession of quantities exceeding 10 times the number of items or limits specified in § 31.12(a)(4) or (5) of this chapter. [Program Code(s): 02710]	8,800
S. Licenses for production of accelerator-produced radionuclides. [Program Code(s): 03210]	35,100
4. Waste disposal and processing:	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material. [Program Code(s): 03231, 03233, 03236, 06100, 06101]	27,200
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. [Program Code(s): 03234]	20,300
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. [Program Code(s): 03232]	12,100
5. Well logging:	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies. [Program Code(s): 03110, 03111, 03112]	16,300
B. Licenses for possession and use of byproduct material for field flooding tracer studies. [Program Code(s): 03113]	[5] N/A
6. Nuclear laundries:	
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material. [Program Code(s): 03218]	39,400
7. Medical licenses:	
A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] [17] Number of locations of use: 1–5. [Program Code(s): 02300, 02310]	37,600
(1). Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] [17] Number of locations of use: 6–20. [Program Code(s): 04510, 04512]	50,100
(2). Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] [17] Number of locations of use: more than 20. [Program Code(s): 04511, 04513]	62,500

TABLE 2 TO PARAGRAPH (d)—SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1] [2] [3]
B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] [17] Number of locations of use: 1–5. [Program Code(s): 02110]	53,100
(1). Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] [17] Number of locations of use: 6–20. [Program Code(s): 04710]	70,700
(2). Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] [17] Number of locations of use: more than 20. [Program Code(s): 04711]	88,200
C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] [17] [19] Number of locations of use: 1–5. [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160]	21,400
(1). Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] [17] [19] Number of locations of use: 6–20. [Program Code(s): 04810, 04812, 04814, 04816, 04818, 04820, 04822, 04824, 04826, 04828]	28,500
(2). Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] [17] [19] Number of locations of use: more than 20. [Program Code(s): 04811, 04813, 04815, 04817, 04819, 04821, 04823, 04825, 04827, 04829]	36,600
8. Civil defense:	
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities. [Program Code(s): 03710]	8,400
9. Device, product, or sealed source safety evaluation:	
A. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution.	29,600
B. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices.	13,100
C. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution.	7,700
D. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel.	1,500
10. Transportation of radioactive material:	
A. Certificates of Compliance or other package approvals issued for design of casks, packages, and shipping containers.	
1. Spent Fuel, High-Level Waste, and plutonium air packages	[6] N/A
2. Other Casks	[6] N/A
B. Quality assurance program approvals issued under part 71 of this chapter.	
1. Users and Fabricators	[6] N/A
2. Users	[6] N/A
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices).	[6] N/A
11. Standardized spent fuel facilities	[6] N/A
12. Special Projects [Program Code(s): 25110]	[6] N/A
13. A. Spent fuel storage cask Certificate of Compliance	[6] N/A
B. General licenses for storage of spent fuel under § 72.210 of this chapter	[12] N/A
14. Decommissioning/Reclamation:	
A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter, including master materials licenses (MMLs). The transition to this fee category occurs when a licensee has permanently ceased principal activities. [Program Code(s): 03900, 11900, 21135, 21215, 21325, 22200]	[7] [20] N/A
B. Site-specific decommissioning activities associated with unlicensed sites, including MMLs, whether or not the sites have been previously licensed	[7] N/A
15. Import and Export licenses	[8] N/A
16. Reciprocity	[8] N/A
17. Master materials licenses of broad scope issued to Government agencies.[15] [Program Code(s): 03614]	457,000

TABLE 2 TO PARAGRAPH (d)—SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1] [2] [3]
18. Department of Energy:	
A. Certificates of Compliance	[10] 2,174,000
B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities [Program Code(s): 03237, 03238]	271,000

[1] Annual fees will be assessed based on whether a licensee held a valid license with the NRC authorizing possession and use of radioactive material during the current FY. The annual fee is waived for those materials licenses and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for possession only/storage licenses before October 1 of the current FY, and permanently ceased licensed activities entirely before this date. Annual fees for licensees who filed for termination of a license, downgrade of a license, or for a possession-only license during the FY and for new licenses issued during the FY will be prorated in accordance with the provisions of § 171.17. If a person holds more than one license, certificate, registration, or approval, the annual fee(s) will be assessed for each license, certificate, registration, or approval held by that person. For licenses that authorize more than one activity on a single license (*e.g.,* human use and irradiator activities), annual fees will be assessed for each category applicable to the license.

[2] Payment of the prescribed annual fee does not automatically renew the license, certificate, registration, or approval for which the fee is paid. Renewal applications must be filed in accordance with the requirements of parts 30, 40, 70, 71, 72, or 76 of this chapter.

[3] Each FY, fees for these materials licenses will be calculated and assessed in accordance with § 171.13 and will be published in the FEDERAL REGISTER for notice and comment.

[4] Other facilities include licenses for extraction of metals, heavy metals, and rare earths.

[5] There are no existing NRC licenses in these fee categories. If NRC issues a license for these categories, the Commission will consider establishing an annual fee for this type of license.

[6] Standardized spent fuel facilities, 10 CFR parts 71 and 72 Certificates of Compliance and related Quality Assurance program approvals, and special reviews, such as topical reports, are not assessed an annual fee because the generic costs of regulating these activities are primarily attributable to users of the designs, certificates, and topical reports.

[7] Licensees in this category are not assessed an annual fee because they are charged an annual fee in other categories while they are licensed to operate.

[8] No annual fee is charged because it is not practical to administer due to the relatively short life or temporary nature of the license.

[9] Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions that also hold nuclear medicine licenses under fee categories 7.A, 7.A.1, 7.A.2, 7.B., 7.B.1, 7.B.2, 7.C, 7.C.1, or 7.C.2.

[10] This includes Certificates of Compliance issued to the DOE that are not funded from the Nuclear Waste Fund.

[11] See § 171.15(c).

[12] See § 171.15(c).

[13] No annual fee is charged for this category because the cost of the general license registration program applicable to licenses in this category will be recovered through 10 CFR part 170 fees.

[14] Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

[15] Licensees subject to fees under categories 1.A., 1.B., 1.E., 2.A., and licensees paying fees under fee category 17 must pay the largest applicable fee and are not subject to additional fees listed in this table.

[16] Licensees paying fees under 3.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[17] Licensees paying fees under 7.A, 7.A.1, 7.A.2, 7.B, 7.B.1, 7.B.2, 7.C, 7.C.1, or 7.C.2 are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[18] Licensees paying fees under 3.N. are not subject to paying fees under 3.P., 3.P.1, or 3.P.2 for calibration or leak testing services authorized on the same license.

[19] Licensees paying fees under 7.B., 7.B.1, or 7.B.2 are not subject to paying fees under 7.C., 7.C.1, or 7.C.2 for broad scope license licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices authorized on the same license.

[20] No annual fee is charged for a materials license (or part of a materials license) that has transitioned to this fee category because the decommissioning costs will be recovered through 10 CFR part 170 fees, but annual fees may be charged for other activities authorized under the license that are not in decommissioning status.

[21] Licensees paying fees under 4.A., 4.B. or 4.C. are not subject to paying fees under 3.N. licenses that authorize services for other licensees authorized on the same license.

* * * * *

■ 21. In § 171.19, revise paragraph (a) to read as follows.

§ 171.19 Payment.

* * * * *

(a) *Method of payment.* All annual fee payments under this part are to be made payable to the U.S. Nuclear Regulatory Commission. The payments are to be made in U.S. funds using the electronic payment methods accepted at *www.Pay.gov.* Federal agencies may also make payment by IntraGovernmental Payment and Collection (IPAC). Specific instructions for making payments may be obtained by contacting the Office of the Chief Financial Officer at 301–415–7554. In accordance with Department of the Treasury requirements, refunds will only be made upon receipt of information on the payee's financial institution and bank accounts.

* * * * *

Dated: February 5, 2024.

For the Nuclear Regulatory Commission.

Jennifer M. Golder,

Acting Chief Financial Officer.

[FR Doc. 2024–03231 Filed 2–16–24; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–0231; Project Identifier AD–2023–01037–T]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all The Boeing Company Model 787–8,

787–9, and 787–10 airplanes. This proposed AD was prompted by a report of heat damage on multiple engine inlets around the engine anti-ice (EAI) duct within the inlet aft compartment. This proposed AD would require doing a records check and updating the operator's existing minimum equipment list (MEL), inspecting the left and right engine inlet cowl assembly for signs of heat damage around the EAI duct, installing or replacing the EAI duct seals, repairing any damage, and replacing the engine inlet if necessary. This proposed AD would also prohibit the installation of engine inlets under certain conditions. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by April 5, 2024.

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

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

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2024–0231; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website *myboeingfleet.com.*
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* by searching for and locating Docket No. FAA–2024–0231.

FOR FURTHER INFORMATION CONTACT: Tak Kobayashi, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3553; email *takahisa.kobayashi@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2024–0231; Project Identifier AD–2023–01037–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Tak Kobayashi, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3553; email *takahisa.kobayashi@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA has received a report indicating that damage was found during overhaul on multiple inlets around the EAI duct within the inlet aft compartment. After investigation, it was found that the seals between the inner and outer ducts and between the outer duct and the aft compartment were missing. This led to EAI air leaking into the aft compartment exposing inlet components to high temperatures. This condition, if not addressed, could cause damage around the EAI duct, leading to reduced structural strength and departure of the inlet from the airplane, resulting in subsequent loss of continued safe flight and landing or injury to occupants from a departed inlet contacting the airplane.

FAA's Determination

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin B787–81205–SB540023–00 RB, Issue 001, dated September 22, 2023; and Boeing Alert Requirements Bulletin B787–81205–SB540024–00 RB, Issue 001, dated September 22, 2023. This service information specifies procedures for incorporating (or verifying incorporation of) an updated dispatch deviation guide (DDG) for item 30–21–01–02 into the operator's existing MEL, checking records to determine whether the inlet has been dispatched under MEL item 30–21–01–02 or 30–21–01–07 before incorporation of the DDG 30–21–01–02 update, and applicable related investigative and corrective actions, including general visual inspection for signs of heat damage around the EAI duct, conductivity measurement and hardness test of areas with heat damage, replacement/installation of the periseal and aft seal, and repair or replacement of the engine inlet. These documents are distinct since they apply to different airplane configurations. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in the service information already described, except as specified under ''Difference Between this Proposed AD and the Service Information'' and except for any differences identified as exceptions in the regulatory text of this proposed AD. This proposed AD would

also prohibit the installation of affected parts under certain conditions. For information on the procedures and compliance times, see this service information at *regulations.gov* under Docket No. FAA–2024–0231.

Difference Between This Proposed AD and the Service Information

The applicability in this proposed AD is not limited to the airplanes identified in paragraph A., ''Effectivity,'' of Boeing Alert Requirements Bulletin B787–81205–SB540023–00 RB or Boeing Alert Requirements Bulletin B787–81205–SB540024–00 RB, both Issue 001 and both dated September 22, 2023. This service information does not contain a complete list of all airplanes that may be affected by the identified unsafe condition. Therefore, the applicability of this proposed AD is all Model 787–8, 787–9, and 787–10 airplanes.

Interim Action

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

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 110 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
MEL update and records check	5 work-hours × $85 per hour = $425	$0	$425	$46,750

The FAA estimates the following costs to do any investigative actions or repairs/replacements that would be required based on the results of the records check. The agency has no way of determining the number of airplanes that might need these actions:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Inspection	3 work-hours × $85 per hour = $255	$0	$255

The FAA has received no definitive data on which to base the cost estimates for the conductivity measurement, the hardness test, inlet replacement, and installation of a new periseal and aft seal, as specified in this proposed AD.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2024–0231; Project Identifier AD–2023–01037–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by April 5, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 787–8, 787–9, and 787–10 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 54, Nacelles/pylons.

(e) Unsafe Condition

This AD was prompted by a report of heat damage on multiple engine inlets around the

engine anti-ice (EAI) duct within the inlet aft compartment due to missing seals between the inner and outer ducts and between the outer duct and the aft compartment. The FAA is issuing this AD to address EAI air leaking into aft compartment exposing inlet components to high temperatures, which could result in damage around the EAI duct. This condition, if not addressed, could lead to reduced structural strength and departure of the inlet from the airplane, resulting in subsequent loss of continued safe flight and landing or injury to occupants from a departed inlet contacting the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin B787–81205–SB540023–00 RB or B787–81205–SB540024–00 RB, both Issue 001 and both dated September 22, 2023, as applicable, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin B787–81205–SB540023–00 RB or B787–81205–SB540024–00 RB, both Issue 001 and both dated September 22, 2023, as applicable.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin B787–81205–SB540023–00, dated September 22, 2023, which is referred to in Boeing Alert Requirements Bulletin B787–81205–SB540023–00 RB, Issue 001, dated September 22, 2023.

Note 2 to paragraph (g): Guidance for accomplishing the actions required by this AD can also be found in Boeing Alert Service Bulletin B787–81205–SB540024–00, dated September 22, 2023, which is referred to in Boeing Alert Requirements Bulletin B787–81205–SB540024–00 RB, Issue 001, dated September 22, 2023.

(h) Exceptions to Service Information Specifications

(1) Where the ''Boeing Recommended Compliance Time'' column in the tables under the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin B787–81205–SB540023–00 RB, Issue 001, dated September 22, 2023, use the phrase ''the Issue 001 date of Requirements Bulletin B787–81205–SB540023 RB,'' this AD requires using the effective date of this AD.

(2) Where the ''Boeing Recommended Compliance Time'' columns in the tables under the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin B787–81205–SB540024–00 RB, Issue 001, dated September 22, 2023, use the phrase ''the Issue 001 date of Requirements Bulletin B787–81205–SB540024 RB,'' this AD requires using the effective date of this AD.

(3) Where Boeing Alert Requirements Bulletin B787–81205–SB540023–00 RB, Issue 001, dated September 22, 2023, and Boeing Alert Requirements Bulletin B787–81205–SB540024–00 RB, Issue 001, dated September 22, 2023, specify contacting Boeing for repair instructions, this AD requires doing the repair before further flight, using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(i) Parts Installation Prohibition

After accomplishment of all applicable actions required by paragraph (g) of this AD on an airplane, no person may install on that airplane any engine inlet that meets a condition specified in paragraph (i)(1) or (2) of this AD, unless the engine inlet has been inspected and applicable corrective actions taken as specified in Boeing Alert Requirements Bulletin B787–81205–SB540023–00 RB, Issue 001, dated September 22, 2023; or Boeing Alert Requirements Bulletin B787–81205–SB540024–00 RB, Issue 001, dated September 22, 2023.

(1) If the engine inlet was installed on an airplane that was dispatched under a dispatch deviation for the operator's existing minimum equipment list (MEL) item 30–21–01–02 or 30–21–01–07 prior to incorporation of Boeing 787 Dispatch Deviation Guide (DDG) 30–21–01–02, as required by this AD.

(2) If the engine inlet was installed on an airplane for which dispatch under a dispatch deviation for the operator's existing MEL item 30–21–01–02 or 30–21–01–07 prior to incorporation of Boeing 787 DDG 30–21–01–02, as required by this AD, cannot be determined.

(j) Alternative Methods of Compliance (AMOCs)

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

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

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

(k) Related Information

For more information about this AD, contact Tak Kobayashi, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3553; email *takahisa.kobayashi@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) Boeing Alert Requirements Bulletin B787–81205–SB540023–00 RB, Issue 001, dated September 22, 2023.

(ii) Boeing Alert Requirements Bulletin B787–81205–SB540024–00 RB, Issue 001, dated September 22, 2023.

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

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

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

Issued on February 12, 2024.

Victor Wicklund,

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

[FR Doc. 2024–03254 Filed 2–16–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1650; Project Identifier MCAI–2022–00210–T]

RIN 2120–AA64

Airworthiness Directives; Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM).

SUMMARY: The FAA is revising a notice of proposed rulemaking (NPRM) and an SNPRM that would have applied to certain Airbus Canada Limited Partnership Model BD–500–1A11 airplanes. This action revises the SNPRM by adding airplanes. The FAA is proposing this airworthiness directive (AD) to address the unsafe condition on

these products. Since these actions would impose an additional burden over those in the NPRM and previous SNPRM, the FAA is requesting comments on this SNPRM.

DATES: The FAA must receive comments on this SNPRM by April 5, 2024.

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

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

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–1650; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the notice of proposed rulemaking (NPRM), original SNPRM, this SNPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For Transport Canada material that is proposed for incorporation by reference in this SNPRM, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email *TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca;* website *tc.canada.ca/en/aviation.* It is also available at regulations.gov under Docket No. FAA–2022–1650.
- For Airbus Canada Limited Partnership material that is proposed for incorporation by reference in this SNPRM, contact Airbus Canada Limited Partnership, 13100 Henri-Fabre Boulevard, Mirabel, Québec, J7N 3C6, Canada; telephone 450–476–7676; email *a220_crc@abc.airbus;* website *a220world.airbus.com.*
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

FOR FURTHER INFORMATION CONTACT: Steven Dzierzynski, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–1650; Project Identifier MCAI–2022–00210–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

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

Background

The FAA issued an NPRM to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus Canada Limited Partnership Model BD–500–1A11 airplanes. The NPRM published in the **Federal Register** on December 20, 2022 (87 FR 77763). The NPRM was prompted by AD CF–2022–04, dated February 14, 2022, issued by Transport Canada, which is the aviation authority for Canada (Transport Canada AD CF–2022–04). Transport Canada AD CF–2022–04 states that the nose radome lightning diverter strips on certain aircraft were painted in production; paint on the diverter strips can compromise the nose radome lightning protection. Reduced effectiveness of the diverter strips can lead to the puncture of the nose radome by lightning and potential arc attachment to antennas, structures, and other equipment in the area of the nose radome. The unsafe condition, if not addressed, could result in damage to the localizer or glideslope antennas, and consequent loss of instrument landing system localizer inputs or deviation information.

In the NPRM, the FAA proposed to require inspecting for paint on the diverter strips on the nose radome, and replacing the nose radome, if necessary, as specified in Transport Canada AD CF–2022–04.

The FAA issued an SNPRM to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus Canada Limited Partnership Model BD–500–1A11 airplanes. The SNPRM published in the **Federal Register** on July 14, 2023 (88 FR 45102). The SNPRM was prompted by a determination that the applicability should be revised because the affected nose radomes may be installed as rotable spares on airplanes outside of the applicability of the NPRM, thereby subjecting those airplanes to the identified unsafe condition. In the SNPRM, the FAA proposed to expand the applicability to apply to airplanes equipped with specific part numbers and serial numbers of nose radomes.

Actions Since the SNPRM Was Issued

Since the FAA issued the SNPRM, the FAA determined that the applicability of the proposed AD should be revised. The FAA has determined that the affected nose radomes may be installed as rotable spares on the Airbus Canada Limited Partnership Model BD–500–1A10 airplane model, which is currently outside of the applicability of the NPRM and SNPRM, thereby subjecting those airplanes to the identified unsafe condition. Therefore, this proposed AD has been expanded to apply to Model BD–500–1A10 airplanes, as well as Model BD–500–1A11 airplanes, equipped with the specific part numbers and serial numbers previously

addressed. The FAA is proposing this AD to address reduced effectiveness of the diverter strips, which could result in damage to the localizer or glideslope antennas, and consequent loss of instrument landing system localizer or deviation information.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2022–1650.

Comments

The FAA received comments from the Air Line Pilots Association, International (ALPA), who supported the SNPRM without change.

The FAA received additional comments from Delta Airlines. The following presents the comments received on the SNPRM and the FAA's response to each comment.

Request for Change to Applicability

Delta requested the proposed applicability be changed to include Model BD–500–1A10 airplanes. Delta stated that the nose radome is a rotable component that is also compatible with Model BD–500–1A10 airplanes, as specified in the A220 Illustrated Parts Data Publication (IPDP), and may be moved from the original Model BD–500–1A11 airplane to a Model BD–500–1A10 airplane over time.

The FAA agrees with the request to include Model BD–500–1A10 airplanes to the applicability in this proposed AD after verifying with Transport Canada that this model aircraft is affected by the unsafe condition. The FAA has revised paragraph (c) of this proposed AD accordingly.

Request for Revision of Affected Part Numbers and Serial Numbers

Delta requested the removal of the following part numbers from paragraph (i) of the proposed AD (in the SNPRM): C01204101–003, C01204101–005, C01204101–011. Delta also requested that paragraph (i) of the proposed AD (in the SNPRM) be revised to include the following serial numbers: S456997, S570556, S626945, S866894, T099675, T471773, T595935. Delta stated that Airbus Canada confirmed only the radomes having part and serial numbers specified in paragraph (c) of the proposed AD (in the SNPRM) are affected by the unsafe condition.

The FAA agrees with the request for the reasons provided, and has revised paragraph (i) of this proposed AD accordingly.

Request for Correction to Issue Date on Reference Material

Delta requested the review and, if applicable, correction to the reference issuance date of SB BD500–538009, Issue 001 in paragraph (j) of the proposed AD (in the SNPRM). Delta stated that it believes the issuance date should be May 9, 2022.

The FAA agrees with Delta's request to correct the issuance date of SB BD500–538009, Issue 001 from April 8, 2022 to May 9, 2022, and has revised paragraph (j) of this proposed AD accordingly.

Related Service Information Under 1 CFR Part 51

Transport Canada AD CF–2022–04 specifies procedures for inspecting for paint on the lightning diverter strips on the nose radome, and replacing the nose radome if the lightning diverter strips are painted.

The FAA also reviewed Airbus Canada Limited Partnership A220 Service Bulletin BD500–538009, Issue 002, dated June 2, 2022. This service information specifies procedures for inspecting for paint on the lightning diverter strips on the nose radome, and replacing and painting the nose radome if the lightning diverter strips are painted.

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

FAA's Determination

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

Certain changes described above expand the scope of the SNPRM. As a result, it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this SNPRM.

Proposed AD Requirements in This SNPRM

This proposed AD would require accomplishing the actions specified in Transport Canada AD CF–2022–04 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate Transport Canada AD CF–2022–04 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with Transport Canada AD CF–2022–04 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Service information required by Transport Canada AD CF–2022–04 for compliance will be available at *regulations.gov* under Docket No. FAA–2022–1650 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 7 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
6 work-hours × $85 per hour = $510	$0 *	$510	$3,570

* The FAA has received no definitive data on which to base the parts cost estimate for the nose radome replacement.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.): Docket No. FAA–2022–1650; Project Identifier MCAI–2022–00210–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by April 5, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes, certificated in any category, with a nose radome having part number (P/N) C01204101–007 or P/N C01204101–009 and a serial number (S/N) S456997, S/N S570556, S/N S626945, S/N S866894, S/N T099675, S/N T471773, or S/N T595935.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report that the nose radome lightning diverter strips on certain aircraft were painted in production; paint on the diverter strips can compromise the nose radome lightning protection. The FAA is issuing this AD to address reduced effectiveness of the diverter strips, which can lead to the puncture of the nose radome by lightning and potential arc attachment to antennas, structures, and other equipment in the area of the nose radome. The unsafe condition, if not addressed, could result in damage to the localizer or glideslope antennas, and consequent loss of instrument landing system localizer inputs or deviation information.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, Transport Canada AD CF–2022–04, dated February 14, 2022 (Transport Canada AD CF–2022–04).

(h) Exception to Transport Canada AD CF–2022–04

(1) Where Transport Canada AD CF–2022–04 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where Transport Canada AD CF–2022–04 specifies removing and installing a nose radome using certain aircraft maintenance publication data modules, this AD also allows accomplishing those actions in accordance with Airbus Canada Limited Partnership A220 Service Bulletin BD500–538009, Issue 002, dated June 2, 2022, with the exception that the painting of the nose radome can be accomplished prior to installation, and that the following nose radome assembly part numbers may be used: P/N C01204101–003, P/N C01204101–005, P/N C01204101–007, P/N C01204101–009, and P/N C01204101–011.

(i) Parts Installation Limitation

As of the effective date of this AD, no person may install, on any airplane, a nose radome having part number (P/N) C01204101–007 or P/N C01204101–009 and a serial number (S/N) S456997, S/N S570556, S/N S626945, S/N S866894, S/N T099675, S/N T471773, or S/N T595935 unless the actions required by paragraph (g) of this AD have been accomplished on the nose radome.

(j) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Airbus Canada Limited Partnership A220 Service Bulletin BD500–538009, Issue 001, dated May 9, 2022.

(k) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the International Validation Branch, mail it to the address identified in paragraph (l)(1) of this AD. Information may be emailed to: *9-AVS-NYACO-COS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

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

(l) Additional Information

(1) For more information about this AD, contact Steven Dzierzynski, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (m)(4) and (5) of this AD.

(m) Material Incorporated by Reference

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

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

(i) Airbus Canada Limited Partnership A220 Service Bulletin BD500–538009, Issue 002, dated June 2, 2022.

(ii) Transport Canada AD CF–2022–04, dated February 14, 2022.

(3) For Transport Canada AD CF–2022–04, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email *TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca;* website *tc.canada.ca/en/aviation.*

(4) For Airbus Canada Limited Partnership material incorporated by reference in this AD, contact Airbus Canada Limited Partnership, 13100 Henri-Fabre Boulevard, Mirabel, Québec, J7N 3C6, Canada; telephone 450–476–7676; email *a220_crc@abc.airbus*; website *a220world.airbus.com.*

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

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

Issued on February 12, 2024.

Victor Wicklund,

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

[FR Doc. 2024–03253 Filed 2–16–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–0232; Project Identifier MCAI–2023–00353–R]

RIN 2120–AA64

Airworthiness Directives; Bell Textron Canada Limited Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Bell Textron Canada Limited Model 407 helicopters. This proposed AD was prompted by a report that a certain part-numbered fuel system standpipe assembly (standpipe) may have sharp edges at the interval weld joints due to a quality escape during the manufacturing process. This proposed AD would require inspecting certain fuel system parts and, depending on the inspection results, taking corrective actions and performing a fuel quantity gauging system calibration. Depending on the results of the fuel quantity gauging system calibration, this proposed AD would require performing additional corrective action and repeating the fuel quantity gauging system calibration. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by April 5, 2024.

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

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

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2024–0232; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For service information identified in this NPRM, contact Bell Textron Canada Limited, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J 1R4, Canada; phone 1–450–437–2862 or 1–800–363–8023; fax 1–450–433–0272; email *product support@bellflight.com;* or at *bellflight.com/support/contact-support.*
- You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N 321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

FOR FURTHER INFORMATION CONTACT: Michael Hughlett, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (817) 222–5889; email: *michael.hughlett@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2024–0232; Project Identifier MCAI–2023–00353–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI

as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Michael Hughlett, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (817) 222–5889; email: *michael.hughlett@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

Transport Canada, which is the aviation authority for Canada, issued Transport Canada AD CF–2023–11, dated February 23, 3023 (Transport Canada AD CF–2023–11), to correct an unsafe condition on Bell Textron Canada Limited Model 407 helicopters, serial numbers 54832 through 54931, 54933 through 54939, and 54942 through 54954. Transport Canada advises that, due to a quality escape, standpipe part number (P/N) 407–062–032–103 may have been delivered with sharp edges at the internal weld joints.

Accordingly, Transport Canada AD CF–2023–11 requires a one-time inspection of standpipe P/N 407–062–032–103 for sharp edges, and depending on the inspection results, reworking the standpipe. Transport Canada AD CF–2023–11 also requires inspecting certain parts of the fuel quantity harness assembly (harness assembly) for damage. Depending on the inspection results, Transport Canada AD CF–2023–11 requires contacting Bell for disposition results of the harness assembly and replacing any unserviceable harness assembly.

You may examine the Transport Canada AD in the AD docket at *regulations.gov* under Docket No. FAA–2024–0232.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Bell Alert Service Bulletin 407–21–124, dated February 1, 2022, which specifies procedures for a one-time visual inspection of the internal joint welds of standpipe P/N 407–062–032–103. If there are any sharp edges, this service information specifies rework procedures, which include deburring the sharp edges, removing all residue, and applying a chemical film. This service information also specifies procedures to remove and inspect the harness assembly connectors for any damage to the electrical pins and inspect the insulation tubing and wires for any cracks and chafing.

Additionally, this service information specifies if any damage is found, contacting product support engineering and submitting certain information. Finally, this service information specifies instructions for various fuel procedures and checks.

The FAA also reviewed Fuel Quantity Gauging System, DMC–407–A–95–65–10–01A–273A–A, Issue 002, dated June 2, 2022, of Bell Model 407 Maintenance Manual, BHT–407–MM, Issue No. 014, dated December 12, 2023, which specifies procedures for a fuel quantity gauging system calibration procedure and inspecting the fuel quantity display information.

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

FAA's Determination

These helicopters have been approved by the aviation authority of Canada and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with Canada, Transport Canada has notified the FAA of the unsafe condition described in its AD. The FAA is proposing this AD after determining that the unsafe condition described previously is likely to exist or develop on other helicopters of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require, with the standpipe removed, inspecting its interior for any sharp edges on each internal weld joint. If there are any sharp edges on any weld joint, this proposed AD would require deburring the edges, ensuring not to exceed a certain depth into the tube. This proposed AD would then require removing all sanding residue and applying a chemical film to any bare metal surfaces. This proposed AD would also require, with the harness assembly removed, inspecting the harness assembly connectors for any mechanical damage and corrosion to the electrical pins, and inspecting the insulation tubing and wires of the harness assembly for any crack and chafing. Depending on these results, this proposed AD would require replacing the harness assembly.

If the harness assembly was required to be replaced as a result of the proposed AD requirements, this proposed AD would require performing a fuel quantity gauging system calibration. Depending on the calibration results, this proposed AD would require replacing the harness assembly and repeating the fuel quantity gauging system calibration.

Differences Between This Proposed AD and the Transport Canada AD

Transport Canada AD CF–2023–11 requires contacting Bell for disposition instructions if damage is found on the harness assembly, whereas this proposed AD would require removing an affected harness assembly from service and replacing it with an airworthy harness assembly.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 51 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this proposed AD.

Inspecting the interior of the standpipe would take approximately 1 work-hour for an estimated cost of $85 per helicopter and $4,335 for the U.S. fleet.

Inspecting the harness assembly connectors, insulation tubing, and wiring would take approximately 1 work-hour for an estimated cost of $85 per helicopter and $4,335 for the U.S. fleet.

If required, deburring, cleaning, and applying a chemical film to each affected weld joint would take approximately 0.5 work-hour for an estimated cost of $43 per weld joint.

If required, replacing an affected harness assembly would take approximately 1 work-hour and parts would cost approximately $1,071 for an estimated cost of $1,156 per harness replacement.

If required, performing a fuel quantity gauging system calibration would take approximately 10 work-hours for an estimated cost of $850 per procedure.

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

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under

that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bell Textron Canada Limited: Docket No. FAA–2024–0232; Project Identifier MCAI–2023–00353–R.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by April 5, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bell Textron Canada Limited Model 407 helicopters, serial numbers 54832 through 54931 inclusive, 54933 through 54939 inclusive, and 54942 through 54954 inclusive, certificated in any category, with a fuel system standpipe assembly (standpipe) part number 407–062–032–103 installed.

(d) Subject

Joint Aircraft System Component (JASC) Code: 2897, Fuel system wiring.

(e) Unsafe Condition

This AD was prompted by a report that certain standpipes may have sharp edges at the interval weld joints due to a quality escape during the manufacturing process. The FAA is issuing this AD to detect sharp edges in the standpipe. The unsafe condition, if not addressed, could result in fuel quantity system wiring damage, loss of erratic fuel quantity indication, or fuel tank ignition.

(f) Compliance

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

(g) Requirements

(1) Within 300 hours time-in-service (TIS) or 6 months after the effective date of this AD, whichever occurs first, accomplish the actions required by paragraphs (g)(1)(i) and (ii) of this AD.

(i) With the standpipe removed from the aft fuel cell, inspect the interior of the standpipe for any sharp edges on each internal weld joint, as shown in Figure 1 of Bell Alert Service Bulletin 407–21–124, dated February 1, 2022. If there is a sharp edge on any internal weld joint, before further flight, deburr the edges of each affected weld joint using an aluminum oxide abrasive cloth or paper, or equivalent, ensuring not to exceed 0.015 in (0.38 mm) depth into the tube material at a 45-degree angle to the weld joint. Then, using a clean cloth dampened with isopropyl alcohol or equivalent, remove all sanding residue from the weld joint and apply a chemical film material to any bare metal surfaces.

(ii) With the fuel quantity harness assembly (harness assembly) removed, inspect the harness assembly connectors for any mechanical damage and corrosion to the electrical pins and inspect the insulation tubing and wires for any cracks and chafing. For the purposes of this AD, mechanical damage is indicated by deterioration of the connections or pins.

(A) If there is any corrosion or mechanical damage, before further flight, remove the harness assembly from service and replace it with an airworthy harness assembly.

(B) If there is a crack or any chafing, before further flight, remove the harness assembly from service and replace it with an airworthy harness assembly.

(2) If the harness assembly was required to be replaced as a result of the inspection required by paragraph (g)(1)(ii) of this AD or by this paragraph, before further flight, with the standpipe and harness assembly installed, perform a fuel quantity gauging system calibration in accordance with paragraphs 4 through 18 of Fuel Quantity Gauging System, DMC–407–A–95–65–10–01A–273A–A, Issue 002, dated June 2, 2022, of Bell Model 407 Maintenance Manual, BHT–407–MM, Issue No. 014, dated December 12, 2023. As a result of the fuel quantity gauging system calibration, if a fuel level does not indicate the correct reading or displays no reading, before further flight, remove the harness assembly from service and replace it with an airworthy harness assembly; and repeat the actions required by this paragraph for the newly installed harness assembly.

(h) Alternative Methods of Compliance (AMOCs)

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

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The following provisions also apply to this AD.

(i) Related Information

(1) For more information about this AD, contact Michael Hughlett, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (817) 222–5889; email: *michael.hughlett@faa.gov.*

(2) Refer to Transport Canada AD CF–2023–11, dated February 23, 2023, for related information. This Transport Canada AD may be found in the AD docket at *regulations.gov* under Docket No. FAA–2024–0232.

(j) Material Incorporated by Reference

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

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

(i) Bell Alert Service Bulletin 407–21–124, dated February 1, 2022.

(ii) Fuel Quantity Gauging System, DMC–407–A–95–65–10–01A–273A–A, Issue 002, dated June 2, 2022, of Bell Model 407 Maintenance Manual, BHT–407–MM, Issue No. 014, dated December 12, 2023.

(3) For Bell service information identified in this AD, contact Bell Textron Canada Limited, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J 1R4, Canada; phone 1–450–437–2862 or 1–800–363–8023; fax 1–450–433–0272; email *productsupport@bellflight.com;* or at *bellflight.com/support/contact-support.*

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N 321, Fort Worth, TX 76177. For

information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on February 12, 2024.

Victor Wicklund,

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

[FR Doc. 2024–03288 Filed 2–16–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–132569–17]

RIN 1545–BO40

Definition of Energy Property and Rules Applicable to the Energy Credit; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking; notice of hearing.

SUMMARY: This document provides a notice of public hearing on proposed regulations that would amend the regulations relating to the energy credit for the taxable year in which eligible energy property is placed in service.

DATES: The public hearing on these proposed regulations has been scheduled for Tuesday, February 20, 2024, at 10 a.m. ET and Wednesday, February 21, 2024, at 10 a.m. ET.

ADDRESSES: Tuesday, February 20, 2024, the public hearing is being held in the Auditorium, at the Internal Revenue Service Building, 1111 Constitution Avenue NW, Washington, DC. Due to security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present a valid photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. Participants may alternatively attend the public hearing by telephone.

On Wednesday, February 21, 2024, the public hearing will be held by telephone only.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, the Office of Associate Chief Counsel (Passthroughs and Special Industries), (202) 317–6835 (not a toll-free number); concerning submissions of comments, the hearing and/or to be placed on the building access list to attend the public hearing, call Vivian Hayes (202–317–6901) (not a toll-free number) or by email to *publichearings@irs.gov* (preferred).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is the notice of proposed rulemaking (REG–132569–17) that was published in the **Federal Register** on Wednesday, November 22, 2023 (88 FR 82188). To accommodate all persons who wished to present oral comments at the public hearing, the hearing Tuesday, February 20, 2024, has been extended to Wednesday, February 21, 2024. The additional day, February 21, 2024, is reserved for oral comments by telephone only.

Persons who wished to present oral comments at the public hearing were required to submit written and electronic comments and an outline of the topics to be discussed as well as the time to be devoted to each topic by January 22, 2024. This due date for requests to testify has not been extended. Persons who made timely requests to testify will receive the telephone number and access codes for the public hearing.

An agenda showing the scheduling of the speakers will be available free of charge at the hearing, and via the Federal eRulemaking Portal (*www.Regulations.gov*) under the title of Supporting & Related Material.

Individuals who want to attend the public hearing in person without testifying must also send an email to *publichearings@irs.gov* to have your name added to the building access list. The subject line of the email must contain the regulation number REG–132569–17 and the language ATTEND In Person. For example, the subject line may say: Request to ATTEND Hearing In Person for REG–132569–17. Requests to attend the public hearing must be received by 5:00 p.m. ET by February 15, 2024.

Individuals who want to attend the public hearing by telephone without testifying must also send an email to *publichearings@irs.gov* to receive the telephone number and access code for the hearing. The subject line of the email must contain the regulation number REG–132569–17, and the language ATTEND Hearing Telephonically. For example, the subject line may say: Request to ATTEND Hearing Telephonically for REG–132569–17. Requests to attend the public hearing must be received by 5 p.m. ET by February 15, 2024.

Hearings will be made accessible to people with disabilities. To request special assistance during a hearing please contact *the* Publications and Regulations Section of the Office of Associate Chief Counsel (Procedure and Administration) by sending an email to *publichearings@irs.gov* (preferred) or by telephone at (202) 317–6901 (not a toll-free number) by 5 p.m. ET on February 14, 2024.

Any questions regarding speaking at or attending a public hearing may also be emailed to *publichearings@irs.gov.*

Oluwafunmilayo A. Taylor,

Section Chief, Publications and Regulations Section, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 2024–03423 Filed 2–14–24; 4:15 pm]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 2 and 99

[EPA–HQ–OAR–2023–0434; FRL–10246.1–02–OAR]

RIN 2060–AW02

Waste Emissions Charge for Petroleum and Natural Gas Systems; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of public comment period.

SUMMARY: On January 26, 2024, the Environmental Protection Agency (EPA) published a proposed rule titled ''Waste Emissions Charge for Petroleum and Natural Gas Systems''. The EPA is extending the comment period for this proposed rule.

DATES: The comment period for the proposed rule published on January 26, 2024, at 89 FR 5318, is extended. Comments must be received on or before March 26, 2024.

ADDRESSES: You may send your comments, identified by Docket ID No. EPA–HQ–OAR–2023–0434, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov* (our preferred method) Follow the online instructions for submitting comments.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Office of Air and Radiation Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington,

DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2023–0434, at *https://www.regulations.gov* (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Jennifer Bohman, Climate Change Division, Office of Atmospheric Programs (MC–6207A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 343–9548; email address: *merp@epa.gov.* For technical information, please go to the Methane Emissions Reduction Program website, *https://www.epa.gov/inflation-reduction-act/methane-emissions-reduction-program.*

SUPPLEMENTARY INFORMATION: On January 26, 2024, the Environmental Protection Agency (EPA) published a proposed rule titled ''Waste Emissions Charge for Petroleum and Natural Gas Systems'' (89 FR 5318). The public comment for this proposed rule was scheduled to end on March 11, 2024. The EPA is extending that deadline to March 26, 2024. This extension will provide the general public additional time for participation and comment.

Paul Gunning,

Director, Office of Atmospheric Protection.

[FR Doc. 2024–03349 Filed 2–16–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[[EPA–R02–OAR–2023–0638, FRL–11638–01–R2]

Approval and Promulgation of Plans for Designated Facilities; New Jersey; Delegation of Authority

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a request from the New Jersey Department of Environmental Protection (NJDEP) for *the* delegation of authority to implement and enforce the Federal Plan Requirements for Municipal Solid Waste (MSW) landfills that commenced construction on or before July 17, 2014, and have not been modified or reconstructed since July 17, 2014 (Federal Plan). On November 21, 2023, the NJDEP Assistant Commissioner signed a memorandum of agreement (MoA) concerning the delegation of authority of the Federal Plan to NJDEP by the EPA. Subsequently, on November 28, 2023, the MoA became effective upon the EPA Region 2 Administrator's signature. The Federal plan addresses the implementation and enforcement of the emission guidelines applicable to existing MSW landfills located in areas not covered by an approved and currently effective state plan. The Federal plan imposes emission limits and other control requirements for existing affected MSW landfills which will reduce designated pollutants. The purpose of this delegation is to transfer primary implementation and enforcement responsibilities from the EPA to NJDEP for existing sources of MSW landfills. This document informs the public of the MoA, provides a copy of the signed document, and proposes to amend regulatory text.

DATES: Written comments must be received on or before March 21, 2024.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R02–OAR–2023–0636 at *https://www.regulations.gov.* Although listed in the index, some information is not publicly available, *e.g.,* Controlled Unclassified Information (CUI) (formally referred to as Confidential Business Information (CBI)) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be CUI or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CUI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Fausto Taveras, Environmental Protection Agency, Region 2, Air Programs Branch, 290 Broadway, New York, New York 10007–1866, at (212) 637–3378, or by email at *Taveras.Fausto@epa.gov*.

SUPPLEMENTARY INFORMATION: The **SUPPLEMENTARY INFORMATION** section is arranged as follows:

I. Background
II. What is the EPA's Proposed Action?
III. Statutory and Executive Order Reviews

I. Background

On May 21, 2021, the EPA published a final rule in the **Federal Register** at 86 FR 27756 to promulgate the Federal Plan Requirements for Municipal Solid Waste (MSW) Landfills That Commenced Construction On or Before July 17, 2014, and Have Not Been Modified or Reconstructed Since July 17, 2014, (Federal Plan), pursuant to section 111(d) of the Clean Air Act (CAA). This Federal Plan implements the 2016 Emission Guidelines (EG), 40 CFR part 60, subpart Cf, which applies to MSW landfills that have accepted waste at any time since November 8, 1987, and commenced construction,

reconstruction, or modification on or before July 17, 2014. *See* 81 FR 59332. The CAA requires States with existing MSW landfills subject to the EG to submit State Plans to the EPA in order to implement and enforce the EG. For States without an approved plan, CAA section 111 and 40 CFR 60.27(c) and (d) require the EPA to develop, implement, and enforce a Federal plan for existing MSW landfills. This Federal Plan applies in areas without an approved State Plan by requiring existing MSW landfills that reach a landfill gas emission threshold of 34 megagrams (Mg) of nonmethane organic compounds (NMOC) or more per year to install a system to collect and control landfill gas. Other requirements for applicable sources include presumptive emission limits, compliance schedules, testing, monitoring, reporting, and recordkeeping. The final rule's preamble also establishes how a State can request delegation of the Federal Plan for implementation and enforcement authority on behalf of the EPA. The procedure requires the State to submit a letter to the EPA that: (1) Demonstrates that the State has adequate resources, as well as the legal and enforcement authority, to administer and enforce the program; (2) includes an inventory of designated MSW landfills, which includes those that have ceased operation, but have not been dismantled or rendered inoperable, and an inventory of the designated units' air emissions; (3) certifies that a public hearing was held on the State's delegation request; and (4) includes an MoA between the State and the EPA that sets forth the terms and conditions of delegation, the effective date of the agreement, and the mechanism to transfer authority.

On May 8, 2023, NJDEP submitted to the EPA a formal written request for delegation of authority to implement and enforce the Federal Plan for MSW landfills located in New Jersey. The goal of the request was to acquire the delegation of authority to implement and enforce the Federal Plan for existing MSW landfills located in New Jersey, in accordance with CAA section 112(l) and 40 CFR 63.91. The letter also provided the following enclosures:

- *Attachment 1:* Demonstration of Adequate Resources and Legal Authority;
- *Attachment 2:* Inventory of Affected MSW Landfills, their emissions, and provisions for Progress Reports to the EPA (40 CFR 60.25(a));
- *Attachment 3:* Compliance Schedule (40 CFR 62.16712); [1]
- *Attachment 4:* Certification of Public Hearing on the State Delegation Request (40 CFR 60.23); and
- *Attachment 5:* Commitment to Enter into a Memorandum of Agreement with the EPA.

Within New Jersey's formal request for delegation of authority to implement and enforce the Federal Plan, the State provides that all of the Federal Plan requirements in 40 CFR part 62, subpart OOO will be incorporated in each affected designated facility's Title V operating permit or preconstruction permit (PCP), when issued. The NJDEP approves, and issues permits and certificates under the authority of N.J.S.A. 26:2C–9.2. NJDEP asserts that all Title V operating permits (issued N.J.A.C. 7:27–22) and PCPs (issued under N.J.A.C. 7:27–8) for affected MSW landfill facilities with have matching, or stricter, emission limits than are stipulated under the Federal Plan at 40 CFR 62.16714 and 62.16716.

After consideration of these materials, the EPA determined that the request letter and attached documents adequately fulfilled the State delegation criteria outlined in Federal Plan's final rulemaking notice, Section VI–D. Delegation of the Federal Plan and Retained Authorities. *See* 86 FR 27756. NJDEP demonstrated that its air agency has the requisite authority and resources to administer and enforce the Federal Plan. New Jersey's legal authority to support delegation of the Federal Plan is demonstrated by the opinion of the Acting Attorney General of New Jersey which states that the NJDEP has adequate legal authority to implement and enforce the MSW landfill Federal Plan.[2] Additionally, NJDEP certifies that it has adequate staffing levels and divisional resources to ensure complete and timely review and issuance of conforming permits, and to monitor and ensure compliance of all affected landfills in the State. According to the submitted inventory, New Jersey currently has eight (8) existing MSW landfill facilities, as defined under 40 CFR 62.16711, that are expected to be affected by the Federal Plan. Of the eight (8) identified MSW landfills, four (4) facilities are currently in operation: Cape May County MUA Secure Landfill, Gloucester County Solid Waste Complex, Keegan SLF, and Monmouth County Reclamation Center. The remaining four (4) landfills are closed: Cinnamon Bay LLC & Edgeboro Landfill Disposal, Linden City SFL, Parklands Recycling & Disposal Facility, and Pinelands Park. Within NJDEP's formal request, the State also provided an inventory of emissions from the affected MSW landfills in New Jersey and compared those emissions to the Federal Plan Emission Limits. NJDEP's Certification of Public Hearing on the State's Delegation Request was also provided with the State's formal request. NJDEP published a notice of proposed Request for Delegation of Authority and Public Hearing in the New Jersey Register on March 6, 2023, 55 N.J.R. 498(a), and a second notice with corrected close of comment period on April 3, 2023, 55 N.J.R. 612(a). A public hearing was also held on April 10, 2023, in accordance with the requirements outlined in 40 CFR 60.23. NJDEP provided a copy of the public notices of the public hearing within the State's formal request.

The Memorandum of Agreement Concerning the Delegation of Authority of the Federal Plan for Existing Municipal Solid Waste Landfills to the New Jersey Department of Environmental Protection by the United States Environmental Protection Agency includes the delegation conditions established, the authorities which NJDEP assumes and EPA retains, a policy statement defining the responsibilities of both parties, program implementation procedures, reporting and transmittal of information requirements, and contact information. Moreover, the MoA states that it is effective upon authorized signature by both NJDEP and EPA and that it shall have an effective date of the last date on which it is signed. The mechanism to transfer authority is explicitly identified to be upon signature of both parties. The MoA also states that EPA will publish an action in the **Federal Register** delegating to the NJDEP the authority to implement and enforce the Federal Plan.

The MoA was signed by the NJDEP Assistant Commissioner on November 21, 2023, and became effective upon signature of the EPA Region 2 Regional Administrator on November 28, 2023. The Federal Plan is codified at 40 CFR part 62, subpart OOO. The text of EPA's and NJDEP MoA, effective November

[1] In identifying this document, New Jersey's submittal cited the Emission Guideline requirements under 40 CFR part 60, subpart Cf. The EPA understands that to be a typographical error as, within that same submittal, the State affirms that the Department will follow the compliance schedule prescribed under 40 CFR 62.16712. The citation is corrected accordingly.

[2] A copy of New Jersey's Acting Attorney General opinion is attached to NJDEP's request letter to implement and enforce the Federal Plan Requirements for MSW landfills that commenced construction on or before July 17, 2014 and have not been modified or reconstructed since July 17, 2014.

28, 2023, can be found in the docket of this rulemaking.

II. Proposed Action

The EPA has evaluated New Jersey's submittal for consistency with the CAA, EPA regulations, and EPA policy. New Jersey has met all the requirements of EPA's guidance for obtaining the delegation of authority to implement and enforce the Federal Plan. New Jersey entered into a MoA with the EPA, and it became effective on November 28, 2023. Accordingly, EPA is proposing to approve New Jersey's request dated May 8, 2023, for the delegation of authority of the Federal Plans for existing sources of MSW Landfills. The EPA will continue to retain enforcement authority along with NJDEP, and the EPA will continue to retain certain specific authorities reserved to EPA in the Federal Plan and as indicated in the MoA (*e.g.,* authority to approve major alternatives to test methods or monitoring, authority to approve alternative methods to determine the site-specific NMOC concentration or a site-specific methane generation rate constant, etc.).

The EPA is proposing to amend regulatory text at 40 CFR part 62, subpart FF—New Jersey, to promulgate the approved delegation of authority to the NJDEP for implementing and enforcing the Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction On or Before July 17, 2014 and Have Not Been Modified or Reconstructed Since July 17, 2014 at 40 CFR part 62, subpart OOO.

The EPA is soliciting public comment on this proposed revision to the regulatory text or on relevant matters overall. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to this proposed action by following the instructions listed in the **ADDRESSES** section of this document.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a State Plan submittal that complies with the provisions of the CAA and applicable Federal regulations. CAA sections 111(d) and 129(b); 40 CFR part 60, subparts B and Cf; and 40 CFR part 62, subpart A; and 40 CFR 62.04. Thus, in reviewing state plan submissions, EPA's role is to approve state choices, provided they meet the criteria of the CAA. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993), and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards; and

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

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

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

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Landfills, Reporting and recordkeeping requirements, Waste treatment and disposal.

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

Lisa Garcia,

Regional Administrator, Region 2.

[FR Doc. 2024–03324 Filed 2–16–24; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 191, 192, and 193

[Docket No. PHMSA–2024–0005]

Pipeline Safety: Meeting of the Gas Pipeline Advisory Committee

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

ACTION: Notice of advisory committee meeting.

SUMMARY: This notice announces a public meeting of the Technical Pipeline Safety Standards Committee, also known as the Gas Pipeline

Advisory Committee (GPAC), to complete discussion of the notices of proposed rulemakings (NPRMs) titled ''Gas Pipeline Leak Detection and Repair'' and ''Class Location Change Requirements.''

DATES: PHMSA will hold a public meeting from March 25, 2024, to March 29, 2024. The GPAC will meet each day from 8:30 a.m. to 5:00 p.m. ET (start and end times are subject to change) to discuss the NPRMs. However, the meeting may end early if the GPAC completes its review of the proposed rules. Members of the public who wish to attend are asked to register no later than March 18, 2024. PHMSA requests that individuals who require accommodations because of a disability notify Tewabe Asebe by email at *tewabe.asebe@dot.gov* at least five days prior to the meeting. Comments on the proceedings of the GPAC meeting must be submitted by April 29, 2024.

ADDRESSES: The meeting will be held in person at the Westin Crystal City, 1800 Richmond Highway, Arlington, VA 22202. However, PHMSA will provide a Microsoft Teams link on the meeting web page at *https://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=169* for the public to listen to the meeting (*please note:* attendees who participate via Microsoft Teams will not have the opportunity to provide comments during the meeting). The agenda and any additional information, including information on how to participate in the meeting, will be published on the meeting web page. Presentations will be available on the meeting website and at *https://www.regulations.gov/* in docket number PHMSA–2024–0005 no later than 30 days following the meeting. You may submit comments, identified by Docket No. PHMSA–2024–0005, by any of the following methods:

- *Web: https://www.regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency. Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building: Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building: Room W12–140, Washington, DC 20590–0001, between 9:00 a.m. and 5:00 p.m. ET, Monday through Friday, except federal holidays.
- *Instructions:* Identify Docket No. PHMSA–2024–0005 at the beginning of your comments. If you submit your comments by mail, submit two copies. Internet users may submit comments at *https://www.regulations.gov.* If you would like confirmation that PHMSA received your comments, please include a self-addressed stamped postcard labeled ''Comments on PHMSA–2024–0005.'' The docket clerk will date stamp the postcard prior to returning it to you via U.S. mail.
- *Note:* All comments received will be posted without edits to *https://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading for more information. Anyone can use the site to search all comments by the name of the submitting individual or, if the comment was submitted on behalf of an association, business, labor union, etc., the name of the signing individual. Therefore, please review the complete DOT Privacy Act Statement in the **Federal Register** at 65 FR 19477 or the Privacy Notice at *https://www.regulations.gov* before submitting comments.
- *Privacy Act Statement:* DOT may solicit comments from the public regarding certain general notices. DOT posts these comments without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*
- *Confidential Business Information:* Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments in response to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. Pursuant to 49 CFR 190.343, you may ask PHMSA to provide confidential treatment to information you give to the Agency by taking the following steps: (1) mark each page of the original document submission containing CBI as ''Confidential;'' (2) send PHMSA a copy of the original document with the CBI deleted along with the original, unaltered document; and (3) explain why the information you are submitting is CBI. Submissions containing CBI should be sent to Tewabe Asebe, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Submission containing CBI can also be emailed to Tewabe Asebe by encrypted email at *tewabe.asebe@dot.gov.* Any commentary PHMSA receives that is not specifically designated as CBI will be placed in the public docket.
- *Docket:* For access to the docket or to read background documents or comments, go to *https://www.regulations.gov.* Follow the online instructions for accessing the dockets. Alternatively, this information is available by visiting DOT at 1200 New Jersey Avenue SE, West Building: Room W12–140, Washington, DC 20590–0001, between 9:00 a.m. and 5:00 p.m. ET, Monday through Friday, except federal holidays.

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

SUPPLEMENTARY INFORMATION:

I. Meeting Agenda

The GPAC will meet from March 25, 2024, to March 29, 2024, to discuss ''Gas Pipeline Leak Detection and Repair'' NPRM that PHMSA published in the **Federal Register** on May 18, 2023, (88 FR 31890),[1] and if time permits the ''Class Location Change Requirements'' NPRM that PHMSA published in the **Federal Register** on October 14, 2020, (85 FR 65142). The GPAC will review the NPRMs and their associated regulatory analyses, including, but not limited to, the cost-benefit and risk assessment analyses; regulatory impact analyses; environmental assessments, and other materials pertaining to the NPRMs provided in the respective public dockets. While the meeting is scheduled for five days, the GPAC may complete its review of the proposed rules in less time. PHMSA will post additional details on the meeting website in advance of the meeting as they become available.

From November 27, 2023, to December 1, 2023, the GPAC met and discussed part of the Gas Pipeline Leak Detection and Repair NPRM and provided to PHMSA recommendations on a number of the proposed requirements. The transcript of the meeting is posted on the meeting website at: *https://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=167* and at *https://www.regulations.gov/.* The Leak Detection and Repair NPRM proposes to make regulatory amendments that implement congressional mandates in the ''Protecting Our Infrastructure of

[1] The public docket for the Leak Detection and Repair NPRM can be found at *https://regulations.gov* in Docket No. PHMSA–2021–0039.

Pipelines and Enhancing Safety Act of 2020'' to enhance safety and reduce methane emissions from new and existing gas transmission pipelines, distribution pipelines, regulated (Types A, B, C, and offshore) gas gathering pipelines, underground natural gas storage facilities, and liquefied natural gas facilities. Among the proposed amendments for part 192-regulated gas pipelines are strengthened leakage survey and patrolling requirements; performance standards for advanced leak detection programs; leak grading and repair criteria with mandatory repair timelines; requirements for mitigation of emissions from blowdowns; pressure relief device design, configuration, and maintenance requirements; and clarified requirements for investigating failures. Finally, this NPRM proposes to expand reporting requirements for operators of all gas pipeline facilities within DOT's jurisdiction, including underground natural gas storage facilities and liquefied natural gas facilities. PHMSA requested public comments with a submission deadline of August 16, 2023.[2] PHMSA received over 43,000 comments on the NPRM.

In the ''Class Location Change Requirements'' NPRM, PHMSA proposes to revise the Federal Pipeline Safety Regulations to amend the requirements for gas transmission pipeline segments that experience a change in class location. Under the existing regulations, pipeline segments located in areas where the population density has significantly increased must perform one of the following actions: reduce the pressure of the pipeline segment; pressure test the pipeline segment to higher standards; or replace the pipeline segment. This proposed rule would add an alternative set of requirements operators could use—based on implementation of integrity management principles and pipe eligibility criteria—to manage certain pipeline segments where the class location has changed from a Class 1 location to a Class 3 location. Through required periodic assessments, repair criteria, and other additional preventive and mitigative measures, PHMSA expects this alternative approach will provide long-term safety benefits consistent with the current natural gas pipeline safety rules while also providing cost savings for pipeline operators. PHMSA requested public comments with a submission deadline of December 14, 2020.[3] PHMSA received 14 comments on the NPRM.

[2] 88 FR 42284.

[3] 85 FR 65142

Following the GPAC meeting, PHMSA will evaluate the GPAC's recommendations and publish final rules that address the comments received and relevant information from the GPAC meeting report.

II. Background

The GPAC is a statutorily mandated advisory committee that provides the Secretary of Transportation and PHMSA with recommendations on proposed standards for the transportation of gas by pipeline. The committee was established in accordance with 49 U.S.C. 60115 and the Federal Advisory Committee Act (FACA) of 1972 (Pub. L. 92–463) to review PHMSA's regulatory initiatives and determine their technical feasibility, reasonableness, cost-effectiveness, and practicability. The committee consists of 15 members, with membership evenly divided among Federal and State governments, regulated industry, and the general public.

III. Public Participation

The meeting will be open to the public. Members of the public who wish to attend must register on the meeting website and include their names and affiliations. PHMSA will provide members of the public reasonable opportunity to make a statement during this meeting. However, commenters may be limited to 3 minutes each to accommodate the business of the committee, and trade organizations are asked to have no more than one speaker per organization. PHMSA will provide a Microsoft Teams link on the meeting web page at *https://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=169* for the public to listen to the meeting (please note: attendees who listen to the meeting via Microsoft Teams will not have the opportunity to make a statement during the meeting). Additionally, PHMSA will record the meeting and post the recording to the public docket. PHMSA is committed to providing all participants with equal access to this meeting. Comments on the proceedings of the GPAC meeting must be submitted by April 29, 2024. If you need an accommodation due to a disability, please contact Tewabe Asebe by phone at 202–366–5523 or by email at *tewabe.asebe@dot.gov.*

PHMSA is not always able to publish a notice in the **Federal Register** quickly enough to provide timely notice regarding last-minute issues that impact a previously announced advisory committee meeting including start and end times. Therefore, individuals should check the meeting website or contact Tewabe Asebe regarding any possible changes.

Issued in Washington, DC, on February 14, 2024, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 384

[Docket No. FMCSA–2023–0269]

RIN 2126–AC68

Commercial Driver's License (CDL) Standards; Incorporation by Reference of a New State Procedures Manual (SPM)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FMCSA proposes to amend the Federal Motor Carrier Safety Regulations (FMCSRs) to incorporate by reference the most recent edition of the American Association of Motor Vehicle Administrators, Inc. (AAMVA) Commercial Driver's License Information System (CDLIS) State Procedures Manual (SPM), Version c.0. This would require all State driver's licensing agencies (SDLAs) to use this edition of the manual to provide guidance on the information systems procedures of the commercial driver's license (CDL) program. Such information includes, but is not limited to, CDL standards, State compliance with CDL programs, qualifications of drivers, and credentials and security threats assessments.

DATES: Comments must be received on or before March 21, 2024.

ADDRESSES: You may submit comments identified by Docket Number FMCSA–2023–0269 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov/docket/FMCSA-2023-0269/document.* Follow the online instructions for submitting comments.
- *Mail:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590–0001.

• *Hand Delivery or Courier:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

• *Fax:* (202) 493–2251.

Viewing incorporation by reference material: You may inspect the material proposed for incorporation by reference at U.S. Department of Transportation Library, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 between 8 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–1812. Copies of the material are available as indicated in the ''Executive Summary'' section of this preamble.

FOR FURTHER INFORMATION CONTACT: Ms. Rebecca Rehberg, CDL Division, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; (850) 728–2034, *cdlcompliance@dot.gov.* If you have questions on viewing or submitting material to the docket, call Dockets Operations at (202) 366–9826.

SUPPLEMENTARY INFORMATION: FMCSA organizes this NPRM as follows:

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I. Public Participation and Request for Comments

A. Submitting Comments

If you submit a comment, please include the docket number for this NPRM (FMCSA–2023–0269), indicate the specific section of this document to which your comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *https://www.regulations.gov/docket/FMCSA-2023-0269/document,* click on this NPRM, click ''Comment,'' and type your comment into the text box on the following screen.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. FMCSA will consider all comments and material received during the comment period.

Confidential Business Information (CBI)

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to the NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to the NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as ''PROPIN'' to indicate it contains proprietary information. FMCSA will treat such marked submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket of the NPRM. Submissions containing CBI should be sent to Brian Dahlin, Chief, Regulatory Evaluation Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 or via email at *brian.g.dahlin@dot.gov.* At this time, you need not send a duplicate hardcopy of your electronic CBI submissions to FMCSA headquarters. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket for this rulemaking.

B. Viewing Comments and Documents

To view any documents mentioned as being available in the docket, go to *https://www.regulations.gov/docket/FMCSA-2023-0269/document* and choose the document to review. To view comments, click this NPRM, then click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

C. Privacy

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory process. DOT posts these comments, including any personal information the commenter provides, to *www.regulations.gov* as described in the system of records notice DOT/ALL 14 (Federal Docket Management System (FDMS)), which can be reviewed at *https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices.* The comments are posted without edit and are searchable by the name of the submitter.

II. Executive Summary

A. Purpose and Summary of the Regulatory Action

In this NPRM, FMCSA proposes to incorporate by reference version c.0 of the Commercial Driver's License Information System (CDLIS) State Procedures Manual (SPM), which the American Association of Motor Vehicle Administrators, Inc. (AAMVA) released in September 2023. In 2014, FMCSA incorporated by reference version 5.3.2.1 of the CDLIS SPM, which AAMVA released in August 2013 (79 FR 59450 (Oct. 14, 2014)). Version c.0 of the CDLIS SPM has replaced the 2013 version. The CDLIS SPM (version c.0) provides guidance on the information system procedures of the CDL program. This change reflects a routine update of the referenced SPM (version c.0) to include changes introduced to exchange driver history record information (EEE) procedures and drug and alcohol clearinghouse (DACH II or Clearinghouse) information exclusively electronically. This NPRM discusses all updates to the currently incorporated 2013 edition of the SPM (version c.0). FMCSA is providing the public an opportunity to comment on the incorporation by reference of version c.0 of the SPM.

The material is available, and will continue to be available, for inspection at the Department of Transportation

Library by the means identified in **ADDRESSES**. Copies of the SPM (version c.0) may also be obtained through AAMVA. Further details and contact addresses and telephone numbers are provided in proposed § 384.107 in the amendatory text of this NPRM. AAMVA plans to update this SPM as needed to reflect changing legal requirements and best practices in the operations of CDLIS. Incorporating version c.0 by reference, however, should ensure that each State complies with the specific version required by FMCSA.

Twenty-six updates distinguish the September 2023 edition of the SPM (version c.0) from the August 2013 edition. The incorporation by reference of the September 2023 edition does not impose new regulatory requirements and consequently would neither impose costs nor result in quantifiable benefits.

III. Abbreviations

AAMVA American Association of Motor Vehicle Administrators
AAMVAnet American Association of Motor Vehicle Administrators Network
ACD AAMVA Code Dictionary
CBI Confidential Business Information
CDL Commercial Driver's License
CDLIS Commercial Driver's License Information System
CFR Code of Federal Regulations
CLP Commercial Learner's Permit
CMV Commercial Motor Vehicle
CMVSA Commercial Motor Vehicle Safety Act
CS Central Site
CSOR Change of State of Record
CVP Common Validation Processor
DACH Drug and Alcohol Clearinghouse
DGAF Mexican General Directorship of Federal Motor Carrier Transportation
DHR Driver History Record
DOT Department of Transportation
EEE Exclusive Electronic Exchange
ELG Eligible
E.O. Executive Order
FHWA Federal Highway Administration
FMCSA Federal Motor Carrier Safety Administration
FMCSRs Federal Motor Carrier Safety Regulations
FR Federal Register
LIC Licensed
MPR Master Pointer Record
NARA National Archives and Records Administration
NPRM Notice of Proposed Rulemaking
OSOR Old State of Record
PDPS Problem Driver Pointer System
RTD Return to Duty
SDLA State Driver's Licensing Agency
SOC State of Conviction
SOI State of Inquiry
SOR State of Record
SOW State of Withdrawal
SPEXS State Pointer Exchange Services
SPM State Procedures Manual
S2S State-to-State
The Secretary The Secretary of Transportation
UMRA Unfunded Mandates Reform Act
U.S.C. United States Code

IV. Legal Basis

Section 206 of the Motor Carrier Safety Act of 1984 (Pub. L. 98–554, title II, 98 Stat. 2832, 2834, codified at 49 U.S.C. 31136) directed the Secretary of Transportation (the Secretary) to regulate commercial motor vehicles (CMVs) and the drivers and motor carriers that operate them. The Secretary was also directed to issue regulations governing the physical condition of drivers.

The Commercial Motor Vehicle Safety Act of 1986 (CMVSA) (Pub. L. 99–570, title XII, 100 Stat. 3207–170, codified at 49 U.S.C. chapter 313) required the Secretary, after consultation with the States, to prescribe regulations on minimum uniform standards for State issuance of CDLs. CMVSA also specified information States must include on each CDL (49 U.S.C. 31308). Congress delegated the authorities set forth in the Motor Carrier Safety Act of 1984 and the CMVSA to FMCSA's Administrator (see 49 U.S.C. 113(f)(1); see also section 1.87(e)–(f)).

FMCSA, in accordance with 49 U.S.C. 31308, has authority to prescribe procedures and requirements the States must adhere to in issuing CDLs and commercial learner's permits (CLPs). To avoid loss of Federal-aid highway funds, 49 U.S.C. 31314 requires each State to comply substantially with 49 U.S.C. 31311(a), which prescribes the requirements for State participation in the CDL program. To ensure that the States are able to exchange information about CDL holders efficiently and effectively through CDLIS, as required by 49 U.S.C. 31311(a)(5) through (9), (15), (18) through (19), and (21), this proposal would require States issuing CDLs and CLPs to follow all the procedures described in version c.0 of the CDLIS SPM when posting, transmitting, and receiving all information on a CDL driver's CDLIS driver record.

V. Background

FMCSA is required by statute to maintain an information system that serves as the clearinghouse depository of information about the licensing, identification, and disqualification of operators of CMVs (49 U.S.C. 31309). CDLIS is the information system that serves that function.

In 1988, the Federal Highway Administration (FHWA) entered into a designation agreement with AAMVA's affiliate AAMVAnet,[1] Inc. (AAMVAnet) to create and operate CDLIS. Under that agreement, CDLIS must contain all the information required in 49 U.S.C. 31309(b). The 1988 agreement states that AAMVAnet will ''cooperate fully with FHWA with respect to the operation of CDLIS including, but not limited to, information content and the development of standards relating to access to CDLIS by States and various employers and employees.'' Pursuant to section 106(b) of the Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Pub. L. 106–159, 113 Stat. 1748, 1757, 49 U.S.C. 113 note), the 1988 agreement automatically transferred to FMCSA upon the Agency's establishment and remained in effect until FMCSA and AAMVA, the party that inherited the responsibilities of its affiliate AAMVAnet entered into a superseding agreement in 2008, discussed below.

In August 2005, section 4123 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users authorized FMCSA to establish a modernization plan for CDLIS (Pub. L. 109–59, 119 Stat. 1144, 1734, codified in part at 49 U.S.C. 31309(e) *et seq.*). Section 4123 also authorized grants to States or organizations representing States for the modernization of CDLIS (49 U.S.C. 31309(f)).

On May 2, 2006, FMCSA published the CDLIS Modernization Plan in the **Federal Register** (71 FR 25885). The Plan detailed the statutory requirements for modernization, the phases of the modernization plan, and the availability of grant funding for AAMVA and the States to comply with CDLIS modernization requirements. Since May 2006, AAMVA has received grants from FMCSA to complete the tasks enumerated in the Modernization Plan.

On June 9, 2008, FMCSA and AAMVA entered into a new cooperative agreement regarding the operation, maintenance, and modernization of CDLIS. While FMCSA authorizes AAMVA to maintain and operate CDLIS, FMCSA does not own CDLIS, and it is not a Federal system of records. FMCSA and AAMVA work closely together to monitor State compliance with the CDLIS specifications, as set forth in the 2006 CDLIS Modernization Plan, and States' annual grant agreements. FMCSA has awarded AAMVA Federal financial assistance grants to maintain an active Help Desk for the jurisdictions, conduct regularly occurring CDLIS training courses for the

[1] AAMVAnet is the telecommunications network that electronically links the following systems: The jurisdictions (motor vehicle Agencies or Department of motor vehicles), FMCSA, third-party service providers (TPSPs), Canadian interprovincial record exchange (IRE) Bridge, Mexican Access Node, and the CDLIS central site.

jurisdictions, and provide States with regular CDLIS transaction and error reports to improve their compliance efforts.

The goals of the 2008 agreement, to which any amendments must be made in writing and signed by all parties,[2] are to provide a framework for the ongoing operation, maintenance, administration, enhancement, and modernization of CDLIS by AAMVA. The modernization will ensure compliance with applicable Federal information technology security standards; electronic exchange of all information including the posting of convictions; self-auditing features to ensure that data are being posted correctly and consistently by the States; and integration of an individual's CDL and the medical certificate as required in the final rule, Medical Certification Requirements as Part of CDL (73 FR 73096, Dec. 1, 2008). Finally, the agreement provides a schedule for modernization of the system. The updated version c.0 of the SPM implements the CDLIS modernization effort.

VI. Discussion of Proposed Rulemaking

Version c.0 of the CDLIS SPM outlines the standard administrative practices required of the fifty States and the District of Columbia, known as ''the jurisdictions,'' when participating in CDLIS. The thirteen Canadian provinces and territories and the Mexican General Directorship of Federal Motor Carrier Transportation (DGAF) will also adopt version c.0 of the CDLIS SPM. Version c.0 of the SPM supersedes previous versions of the CDLIS SPM.

The primary audiences for this SPM (version c.0) are the jurisdictions involved in CDL programs, and their counterparts in Canada and Mexico, including administrative employees involved in driver licensing and computer technology staff supporting CDLIS transactions. The SPM (version c.0) contains background information about the laws mandating CDLIS and discusses types of CDLIS users. The SPM (version c.0) also includes descriptions, excerpted from the CDLIS System Specifications (version c.0), of the nationwide computerized data-exchange transactions used to electronically record and report driver information. Further, the SPM (version c.0) provides guidance on administrative driver licensing procedures that involve CDLIS, including issuing, renewing, transferring, withdrawing, and reinstating a driver's license, and posting convictions. The SPM (version c.0) does not address CDL or CLP program requirements outside the scope of CDLIS.

The CDLIS SPM (version c.0) addresses changes that were made as part of the modernization effort to make CDLIS more efficient in handling the increasing number of driver records and data transactions. These changes provide guidance on the information system procedures of the CDL program. In addition, version c.0 includes updates to support changes made to CDLIS as a result of the DACH II rule, published in October 2021 (81 FR 87686), and revises procedures to support changes made to CDLIS as a result of the EEE rule, published in July 2023 (86 FR 38937). Any references in the SPM (version c.0) to the U.S. Code or CFR should be confirmed by users.

The following is a summary of the updates introduced in version c.0 of the SPM:

AAMVA released a new version of the CDLIS SPM (version c.0) to introduce updates to CDLIS,[3] as well as new administrative practices required by the jurisdictions as a result of the DACH II final rule. This new version of the SPM (version c.0) also revised procedural updates pertaining to the EEE final rule when a State receives a notification [4] of conviction or withdrawal outside CDLIS after the EEE compliance date.[5]

The SPM includes multiple versions; however, this proposed rule will focus solely on the contents of latest version (c.0), which are discussed in more detail below. Twenty-six changes in the 2023 edition of the SPM (version c.0) distinguish it from the August 2013 edition. Of the 26 updates, 24 stem from the DACH II final rule and 2 stem from the EEE final rule.

The purpose of DACH II is to improve highway safety by ensuring that CLP or CDL holders with drug and alcohol program violations do not operate a CMV until they complete the return to duty process (RTD) and can lawfully resume driving. DACH II also ensures that all SDLAs [6] are able to determine whether CMV drivers licensed in their State are subject to FMCSA's CMV driving prohibition. The following updates were made pursuant to the DACH II final rule:

The first through fourth updates are related to the CDLIS system and the newly introduced electronic transactions.

1. An update to the DACH II State Pointer Exchange Services (SPEXS) system was introduced to CDLIS-only participants, as well as CDLIS and State-to-State (S2S) participants.[7] The SPEXS system is a platform operated by AAMVA, that is utilized to locate driver information in CDLIS based on identifiable information provided by the State, to ensure that each driver is associated with one license, one identity, and one record. The SPM (version c.0) adds a functional release level to SPEXS, providing specified sets of system functionality, thereby enabling participants to use the SPEXS platform. This helps identify and locate a driver's record and prevents the creation of duplicate records for the same driver.

2. As a result of the SPEXS update described above, two new transaction codes (CD40) and (CD41) were added to the CDLIS Solution table, which assigns and defines all existing codes in the SPEXS system to accomplish a specific business function. Each transaction facilitates the exchange of data by sending a message (in the form of a one-way transmission) carrying driver information from one CDLIS node to another in the AAMVA network. These new transactions will improve the functionality of driver record searches in CDLIS. The first transaction (CD40) enables information to be communicated from the central site (CS) [8] to the State of record (SOR) via the Clearinghouse. The second transaction (CD41) enables information to be communicated from the State of inquiry (SOI) [9] to the Clearinghouse via the CS. Both transactions are discussed in more detail below.

3. A new transaction code (CD40) was added to table 2 of the CDLIS transactions in the SPEXS system to obtain Clearinghouse driver status updates. The driver status update transaction is used to notify the SOR of a change in driver status by obtaining information from the Clearinghouse records. The SPEXS system facilitates the transmission of information in the

[2] The 2008 agreement was amended in 2013, however, the amendments did not relate to the CDLIS modernization efforts.

[3] CDLIS is a nationwide network composed of a database that stores information about commercial drivers, and the associated hardware and software used to manage commercial driver information.

[4] A notification is an indicator that a driver's status has changed in the Clearinghouse.

[5] The EEE rule compliance date is August 22, 2024.

[6] SDLAs maintain databases, application programs, and systems software to support State-to-State functions.

[7] The State-to-State (S2S) system allows States to electronically check with other participating States if an individual holds a CDL or CLP in another State.

[8] The SPEXS central site (CS) facilitates the transmission of information from the Clearinghouse system to the States.

[9] The SDLA jurisdiction that requests information about the driver from the State of record (SOR).

form of notifications [10] from the Clearinghouse to the States. In this transaction, the CS sends a request to the Clearinghouse to get a driver status for a jurisdiction. The Clearinghouse sends all driver status changes to the CS in response, and the CS then forwards the Clearinghouse notification to the requesting State. Finally, the SOR sends a receipt to the CS to confirm receipt of the notification. When receiving information from the CS, the SOR interprets it to determine whether a CDL or CLP needs to be downgraded, upgraded, or reinstated based on the Federal minimum requirements and the State's laws and policies, as applicable.

In certain cases, an error message is triggered for this type of transaction. This may originate from the CS to the Clearinghouse, or from the SOR to the CS, if a validation error occurs. An error could be triggered if the SOR cannot locate the CDL or CLP record or is no longer the current SOR, if the driver in question is reposed or deceased, and if the requested driver is not a CDL or CLP holder. The SPM (version c.0) also included a diagram (Figure 20) to aid in visualizing the driver status update process for the CD40 transaction.

4. A second transaction code (CD41) was introduced to table 2 of the CDLIS transactions in the SPEXS system to enable the SOI to request a driver's current status from the Clearinghouse. A change in the driver's status is caused either by an unresolved drug and alcohol violation or an erroneous violation. In this process, the SOI sends a status inquiry to the CS to obtain information on the driver's status. The CS then forwards the SOI's request to the Clearinghouse, and the latter sends a response to CS. The CS validates and forwards the Clearinghouse notification to the SOI. When receiving information from the CS, the SOI (if it is the SOR) interprets the information to determine whether a CDL or CLP needs to be downgraded, upgraded, or reinstated based on the Federal minimum requirements and the State's laws and policies, as applicable. If the SOI is not the SOR, the SOR interprets the information from the CS to determine if the applicant has a Clearinghouse violation, which would prohibit the issuance of a CDL or CLP.

In certain cases, an error message is triggered for this type of transaction. This may originate from the CS to the Clearinghouse or from the CS to the SOI, if a validation error occurs. An error would be triggered if the driver status inquiry message does not pass the validations performed by the CS, if the Clearinghouse notification does not pass the validations performed by the CS, or if any system errors are encountered (such as message delivery errors, timeout, or software issues). The SPM (version c.0) incorporated a diagram (Figure 21) to aid in visualizing the driver status update process for the CD41 transaction.

Items 5 through 24 are related to the processes for the jurisdictions to conduct Clearinghouse checks on an individual prior to issuing a CDL or CLP and the steps they must follow based on the results of those checks.

5. A new bullet item was added to the ''Procedures for Issuing a CDL or CLP'' section of the SPM (version c.0) to establish procedures relating to issuing a duplicate CDL or CLP. The purpose of this addition is to establish a procedure for SDLAs to adopt when issuing a duplicate. This new procedure aims to reduce the risk of fraud by requiring that the jurisdiction issuing a duplicate CLP or CDL check the driver's image on file when they appear in-person.

6. A new section (divided into two subsections) was added to establish Clearinghouse checks, as a requirement for the jurisdictions prior to issuing a CDL or CLP. In the first subsection, a reference to § 383.73 was included, which requires Clearinghouse checks be made prior to the issuance of a CDL or CLP.

The second subsection introduced a new column to table 4 titled ''CDLIS Checks Prior to Issuance'' to ensure a Clearinghouse check to confirm the applicant's eligibility is completed prior to the issuance of a CDL or CLP. Additionally, Note 3 was added to table 4 regarding CDL reinstatement applications. The note specifies that, prior to reinstatement, the jurisdictions must have processes in place to ensure the driver is not prohibited from operating a CMV due to a Clearinghouse violation. It also outlines the ways in which the jurisdictions can accomplish this process by providing options to either perform a Clearinghouse check or to maintain internal records of notifications received from the Clearinghouse.

7. A new section was added on the Clearinghouse check requirements. First, this section describes the purpose of the DACH II final rule and references the requirements associated with conducting a Clearinghouse check to comply with the rule's provisions. This section also addresses the circumstances in which States and the jurisdictions must complete checks or obtain a record using the Clearinghouse prior to issuing a CDL or CLP.

This section also addresses the processes for the jurisdictions to downgrade the driver's license when notified [11] by the Clearinghouse, or when the Clearinghouse query [12] indicates that the driver is prohibited from operating a CMV. This would be achieved by changing the commercial status on the CDLIS driver record from ''LIC'' (licensed) to a minimum of ''ELG'' (eligible) for CDL holders, and similarly changing the permit status from LIC to ELG for CLP holders. Additionally, the SOR may perform an in-State withdrawal for a person with a Clearinghouse violation and must follow the procedures outlined in the SPM (version c.0) to complete the withdrawal process. This process is further explained in update 15 of the SPM (version c.0).

Lastly, this section includes a note on data records for drivers who are in prohibited status due to a Clearinghouse violation starting January 6, 2020 (the original compliance date for initial Clearinghouse requirements) and directs the jurisdictions to adopt a process to retrieve that data. The process provided lists two viable options to retrieve data either via the FMCSA web portal or by contacting FMCSA or AAMVA directly. The jurisdictions will have 60 days from the compliance date [13] of the DACH II final rule to act on such records.

8. A new section was added to describe the procedures for SDLAs to connect to the Clearinghouse, as well as brief descriptions for each option. The jurisdictions may either choose to connect to the Clearinghouse using the FMCSA direct-connect option [14] (or the FMCSA solution), or via the CD40 or CD41 transaction (or the CDLIS solution).

9. An update was made to determine eligibility for a CDL or CLP by the addition of a Clearinghouse check. A bullet was added to the list of eligibility criteria [15] to prohibit drivers from being

[10] This applies to States that opt to receive notifications from the Clearinghouse. The Clearinghouse sends notifications to the States whenever there is a change of status in the Clearinghouse. States may also opt to use CDLIS to receive notifications.

[11] The DACH Driver Status Update transaction is used to notify the SOR of a change in driver status via the Clearinghouse.

[12] The jurisdictions are required to query the Clearinghouse to receive status updates on a given driver prior to issuing, renewing, transferring, or upgrading a CDL or CLP starting November 18, 2024.

[13] The DACH II final rule's compliance date is November 18, 2024.

[14] The jurisdictions that opt to use the FMCSA direct-connect option must refer to *https://clearinghouse.fmcsa.dot.gov/Resource/Page/SDLA-Resources* page and must directly contact FMCSA (*clearinghouse@dot.gov*) for the implementation of this option.

[15] The list of eligibility criteria include: a CDLIS check, a Problem Driver Pointer System (PDPS)

disqualified again if the driver's prior jurisdiction disqualified and subsequently reinstated them. A subsection was also added to introduce a requirement that the jurisdictions query the Clearinghouse prior to issuing, renewing, transferring, or upgrading a CDL or CLP.

10. A new section was added to clarify the course of action SDLAs must take in evaluating the results received from the Clearinghouse on a driver's status, or when the jurisdiction queries the Clearinghouse. Pursuant to § 383.73, the jurisdictions are required to access and use information from the Clearinghouse and to check the driver's status by querying the Clearinghouse prior to issuing, renewing, transferring, or upgrading a CDL or CLP.

Five subsections were added to describe a list of reasons why a Clearinghouse status may change and how SDLAs evaluate the information provided by the Clearinghouse. The five sections include more detail on the Clearinghouse data elements, identifying and matching a driver in the Clearinghouse, acting on a driver with prohibited status, acting on a driver with a not prohibited status, and Clearinghouse downgrade, which are explained below.

11. The Clearinghouse data elements subsection identifies information that a jurisdiction must use, including the driver's identifying information (such as the driver's full name, date of birth, CDL or CLP number, etc.) and status in the Clearinghouse system (if the driver is prohibited and, if so, the date that status went into effect). A full list of all Clearinghouse elements, their description and usage are outlined in table 10 titled ''Clearinghouse Data Elements'' in the SPM (version c.0).

12. The second subsection was added to provide guidelines for the jurisdictions to identify a driver's matching record in the Clearinghouse, and to compare Clearinghouse information against information from other checks (including CDLIS and the Problem Driver Pointer System [16] (PDPS)), to ensure action is being taken on the correct driver. States may also use existing guidelines to determine if a Clearinghouse notification is needed for the driver in question.

Additional procedures for States were introduced to evaluate which record to act upon when multiple records are found on the same driver. For instance, if more than one CDLIS record is found, the SOR must take necessary action on the CDLIS record with the most recent issue date. If one record is CDLIS and another record is non-CDLIS (kept outside of the CDLIS system), the SOR must take necessary action on the CDLIS record as applicable. If one or more non-CDLIS records indicating no history or record of a prior CDL or CLP are found, the SOR may take necessary action on the driver's CDL or CLP status, as applicable. If no record exists in the Clearinghouse, no violations will prohibit a driver from operating a CMV.

13. The third subsection addresses actions the jurisdictions must take against a driver with a prohibited status after they are alerted either via Clearinghouse notification or as a result of a Clearinghouse query. This process will prevent prohibited drivers from operating a CMV. This subsection lists three options for the jurisdictions to follow: denial of the driver's request resulting in non-issuance of a CDL or CLP, removal of CDL or CLP privileges from the driver's license, or downgrade of the driver's CDL or CLP.

14. The fourth subsection addresses actions the jurisdictions must take when the Clearinghouse indicates a driver is not prohibited from operating a CMV. Pursuant to the DACH II final rule, a driver is considered ''not prohibited'' when the driver is no longer prohibited from operating a CMV. This occurs after the driver completes the RTD requirements or if the driver was erroneously identified as prohibited. In the latter case, the Clearinghouse notifies the jurisdiction that the driver's status was based on erroneous information. After receiving a notification, the jurisdiction will not initiate a downgrade process if one has not been started. If the jurisdiction has already initiated the downgrade process, it must terminate it and clear the driver's record of any reference to the erroneously identified violation. Finally, if the jurisdiction has already completed the downgrade process, the jurisdiction must expeditiously reinstate the driver's privileges and expunge the driver's record of any reference to the erroneously identified violation. The jurisdictions must follow a similar process when a query indicates the driver is not prohibited from operating a CMV.

15. The final subsection addresses additional procedures to downgrade the commercial driving privilege due to Clearinghouse violations. In this case, the jurisdictions are subject to a Federal requirement to change the commercial status of the CDLIS driver record from LIC to a minimum of ELG for CDL holders, and similarly change the permit status from LIC to a minimum of ELG for CLP holders.

This subsection also addresses scenarios when a SOR may take additional action, such as in-State withdrawal, based on the State's laws and/or policies. In this case, the SOR must downgrade the driver's status to ''NOT'' (not a CDL or CLP) and use the State's code indicating withdrawal. In-State withdrawals must not be transmitted to the CDLIS driver history record (DHR), which is maintained on the jurisdiction's system.

The subsection also outlines the process for SDLAs performing in-State withdrawals to respond to an S2S status request (referred to as an SG message), history request (referred to as an SB message) or change of record request (referred to as an SD message). Transactions for status requests from S2S to the SOR are coded CD30,[17] CD04,[18] and CD08,[19] respectively. In all cases, the SOR must respond with the current driver status, but must not include any details of Clearinghouse in-state withdrawal in the CDLIS DHR.

The first procedure applies to an S2S Status Request (CD03, SG message). In the CDLIS S2S Status Request, the SOR must report the driver status to the SOI via SG message. This request enables the SOI to obtain status information on a CDL holder directly from the SOR without inquiring through CDLIS. The typical use of this transaction is to obtain the status information for a driver who was one of several returned as matches on a search inquiry. Since status requests are not sent when a search inquiry results in more than one match, the S2S status request gives the inquirer a tool for obtaining the status for any or all of the matched drivers. This request may also be used to verify the status of a CDL or CLP when an out of State license is presented to a jurisdiction. The inquirer may request the status for only one driver at a time with this request. Upon receipt, the SOR validates the driver's identification

check, a 10-year history check, a medical qualification check, social security number verification and citizenship/lawful permanent residency/legal presence, or a Clearinghouse check.

[16] The Problem Driver Pointer System (PDPS) is a system in which SDLAs provide the National Drivers Record with a pointer to a problem driver's history when the driver is convicted of a Clearinghouse violation.

[17] This online search inquiry is a transaction which allows the jurisdictions to perform inquiries on multiple drivers, instead of one driver at a time, to fulfil their requirement. This process was developed as an alternative to the CDLIS online search inquiry.

[18] The CD04 post requisite determines whether any information in the driver's history precludes it from granting a license or requires it to conduct additional processing.

[19] This describes a change of record transaction by transferring a message from the new SOR to the CS.

information, retrieves the status information, and returns the status information to the inquirer.

The second procedure applies to an S2S history request (CD04, SB message). In the CDLIS S2S history request the SOR or old State of record (OSOR) must report the entire driver history to the SOI or new State of record (NSOR). An S2S history request enables an inquirer to obtain the DHR on a CDL holder directly from the SOR without inquiring through CDLIS. Typically, a jurisdiction uses this transaction when a driver is considered for a change if State of record (CSOR). First, the inquirer verifies the driver's existence in the CDLIS CS, license status, and SOR using search inquiry, verification inquiry,[20] or verification inquiry preceding an S2S history request. The inquirer may request the history for only one driver at a time with this request. Upon receipt, the SOR validates the driver identification information, retrieves the DHR, and returns the driver history information to the SOI.

The third procedure applies to a CSOR Request (CD08, SD message). In the S2S CSOR request processed in CDLIS, the SOR or OSOR must report the entire driver history to the SOI or NSOR. The CSOR transaction is used to transfer a DHR from an OSOR to a NSOR, and to reflect this change in the Master Pointer Record (MPR).[21] The new jurisdiction officially becomes the NSOR when the CSOR request is initiated. Simultaneously, the old jurisdiction becomes the OSOR. The new roles are reflected in the MPR once CDLIS retrieves and updates the MPR. The CSOR transaction is not used when Canadian or Mexican CDL holders move to the United States. In these cases, the driver is added as a new driver. The previous CDL's jurisdiction code and driver's license number combination may be entered in the corresponding primary identification data, or ''AKA'' fields. The transaction is also not used for United States CDL holders moving to Mexico or Canada. When issuing any type of license to a driver, if the driver has a CDLIS MPR at the CS, the new licensing jurisdiction must initiate the CSOR and accept responsibility of the pointer as the NSOR.

The NSOR sends a CSOR update message to CDLIS upon receipt of the CSOR update message, and CDLIS will validate the driver identification information in the message. If the NSOR is changing the driver's name, date of birth, and/or social security number, CDLIS checks to see if any drivers can be considered possible duplicates for the new driver. If so, CDLIS issues notifications of possible duplicate driver to all SORs affected, including the SOR that submitted the CSOR update message. CDLIS retrieves the driver's MPR, updates it by noting the initiator of the CSOR transaction as the NSOR and the recipient of the CSOR request as the OSOR. After CDLIS returns a confirmation to the NSOR, it sends a DHR request to the OSOR. Upon receipt of the DHR request, the OSOR: validates the message data, retrieves the DHR, and adds the NSOR's jurisdiction code and driver's license number to its DHR. This enables the OSOR to respond to status and history requests from the NSOR until such time as the CSOR is complete, and to return driver history information to the NSOR.

The CDLIS Common Validation Processor (CVP) is a function of CDLIS which performs edits on the history information before forwarding it to the NSOR. Upon receipt of the response message from the OSOR via the CDLIS CVP, the NSOR performs any required additional validations not already performed by the CDLIS CVP. Within 96 hours of receipt of the information, the NSOR creates the DHR and posts the history, and sends a confirmation to CDLIS. Upon receipt of the confirmation from the NSOR, CDLIS validates the information, verifies that the information matches the updated MPR, and sends confirmations to both the NSOR and OSOR validating the CSOR is complete.

A process is also set in place for the change of record requests from the OSOR to the NSOR. Both SORs have specific responsibilities while a CSOR is being processed. The transaction is initiated when the OSOR receives an SD message from the CDLIS CS. When the CSOR is processing, the OSOR must not respond to status or history requests for that driver, except those received from the NSOR. The OSOR must respond with an error to all other inquiring the jurisdictions and clearly annotate that the driver record is no longer associated with the SOR. The OSOR must also annotate the driver's record to indicate the NSOR's jurisdiction code and driver license number. After the NSOR receives the ''Confirm CSOR in-Progress'' (CG) message, the CDLIS CS sets an internal flag that the CSOR is in progress. The NSOR then becomes the driver's SOR and must respond to all status and history requests for that driver.

16. New procedures were introduced for the NSOR and OSOR during and after the CSOR process outlining the appropriate course of action when the OSOR performs an in-State withdrawal due to a Clearinghouse violation and a CSOR is taking place. An in-State withdrawal is performed when an SDLA initiates a withdrawal of a driver's CDL or CLP due to a Clearinghouse violation against a jurisdiction's State laws and/or policies.

The first procedure applies to the OSOR when the following applies in the DHR: the driver's commercial status is designated as ''NOT,'' the DHR only consists of an open in-State withdrawal due to a Clearinghouse violation, and the driver's record does not have any other open convictions and/or withdrawals. In this case, the OSOR must have in-State procedures in place to reinstate the driver's commercial status to ELG upon receipt of the CSOR history request (SD message).

The second procedure applies to the OSOR when the DHR with the driver's commercial status is designated as ''NOT,'' and the DHR consists of an open in-State withdrawal along with other convictions and/or withdrawals. In this case, the OSOR must have in-State procedures in place to reinstate only the Clearinghouse in-State withdrawal and follow existing Federal and State guidelines for convictions and withdrawals.

The third update is applicable when the driver has obtained a NSOR. In this case, the NSOR must respond to all status and history requests for that driver. Procedures are also set in place for the NSOR when a Clearinghouse violation is found. In this case, the NSOR must follow the procedures described in update 12 to determine whether the driver is eligible for a CDL or CLP.

17. New procedures were added to enable SDLAs to respond to an S2S status request, S2S history request, and CSOR request. This procedure also requires that the SDLAs must not transmit Clearinghouse withdrawals on the CDLIS DHR. In the S2S status request, the SOR must report the driver status to the SOI, as specified in CD03. In the S2S history request and CSOR requests, the SOR or OSOR must report the entire driver history to the SOI or SOR as specified in CD04 and CD08 transactions. A SOR must send the entire AAMVA Code Dictionary (ACD)[22] history when responding to a CSOR or history request.

[20] A verification inquiry (CD02) is a request for a driver's Master Pointer Record (MPR) and license status.

[21] The Master Pointer Record (MPR) is a pointer to the jurisdictions that issued the driver's latest CDL or CLP. In CDLIS and SPEXS, the CS keeps a MPR for each driver.

[22] The ACD is a standardized set of three-character codes used to identify either a type of conviction or the reason for a withdrawal of driving

When the SOR receives an S2S SG message for the driver, the SOR must respond with the current CDL status and must not include any details of Clearinghouse in-State withdrawal in the CDLIS DHR.

When the SOR receives an S2S SB message, for the driver, the SOR must respond with the current CDL status and history but must not include any details of Clearinghouse in-State withdrawal in the CDLIS DHR.

When a SOR receives a CSOR request, or SD message for the driver, States must refer to the procedures outlining OSOR and NSOR responsibilities outlined in update 15.

18. An update to the procedures set out for SDLAs to follow when a driver applies for reinstatement was included in the SPM (version c.0). Additionally, AAMVA incorporated FMCSA's guidance requiring SDLAs to have a process in place to ensure the driver is not prohibited from operating a CMV due to a Clearinghouse violation prior to reinstatement. To comply with this requirement, the jurisdictions may perform a Clearinghouse check or maintain records of notifications received from the Clearinghouse.

19. Procedures were also added for the jurisdictions to perform a Clearinghouse query on the driver prior to issuing, reinstating, renewing, upgrading, or transferring a CDL or CLP. When an individual applies for a CDL or CLP, the jurisdictions must initiate a search inquiry in CDLIS, the National Driver Registry,[23] and the Clearinghouse no earlier than 24 hours prior to issuance. This search process confirms that no matches already exist for an individual, and whether a violation has been recorded. The jurisdictions must also initiate a 10-year history check for a new CLP or CDL applicant. The PDPS State Procedures Manual provides more detail on conducting and recording the 10-year history check.

Additional procedures also apply to when a driver applies for reinstatement of a CDL or CLP. This may occur when a SOR withdraws the driver's CDL or CLP and the driver applies for reinstatement at the end of the withdrawal period. After being reinstated, the driver needs to apply for a new license, and the jurisdiction must follow procedures to complete a search inquiry (as described above) and refer to the added documentation (the PDPS State Procedures Manual) for more detail about conducting the 10-year history check.

The jurisdictions must also conduct a check following the same procedures when a driver applies for a renewal of their CDL or CLP, using the additional PDPS documentation to conduct and record the 10-year history check. The same process applies to drivers changing the jurisdictions if they have not completed the 10-year history check.

Additional procedures were updated to establish rules for managing and maintaining driver records in the MPR and DHR. In accordance with Federal regulations, a DHR and associated MPR are required for three types of U.S. drivers. The first type of driver is a current CDL or CLP holder, the second is an individual who has previously held (but no longer holds) a CDL or CLP (and data retention requirements [24] have not been met), and the third is a non CDL or CLP holder who has been convicted of a violation (and data retention requirements have not been met). The SOR is responsible for maintaining the MPR and DHR for each of its drivers and ensuring the records are complete and accurate. The SOR cannot delete the MPR of a former or non-CDL or CLP holder until:

1—1 year has passed since CDL or CLP expiration;

2—The driver is reported deceased or the driver's license has been downgraded to non-commercial; or

3—All DHR retention requirements are met.

The SOR will delete a MPR based on whichever period is greater. The ACD provides additional detail on retention requirements for convictions [25] and withdrawals, as well as retention requirement details. The SOR may also use this SPM (version c.0) to reevaluate whether to continue maintaining the record of a deceased driver after 10 years or more have passed since the driver was reported deceased.

20. Procedures were added for performing a Clearinghouse query when a driver applies for the initial issuance or renewal of a hazardous materials endorsement. In such cases, the jurisdictions must submit search requests and are provided with the latest version of the SPEXS System Specification document as a guide to aid them in conducting a verification query using the CDLIS CS. The jurisdictions are also provided guidance on how to proceed based on the driver's search results in the Clearinghouse, as described in the previous SPM (version c.0) updates.

21. Procedures were added for the jurisdictions to perform a Clearinghouse check to determine the driver's eligibility prior to transferring a CDL. This includes conducting a search inquiry on a driver and determining a course of action based on the results of the Clearinghouse check, as described in the previous SPM (version c.0) updates. The SPEXS System Specification manual provides additional information on conducting a search in CDLIS.

22. A new section was added to include procedures to evaluate if matching records exist for an applicant in the Clearinghouse, and whether those are in fact associated with the applicant. If a Clearinghouse query ''returns a record,'' this indicates a violation prohibiting the driver from operating a CMV may or may not be found. If a record is found, the CDL or CLP applicant is considered a ''match.'' In this case, the jurisdictions must follow guidance for evaluating Clearinghouse results, as described in previous SPM (version c.0) updates. Additionally, the jurisdictions must confirm that the record is associated with the applicant. The jurisdictions are also provided guidance for maintaining the driver's record if the individual moves to another jurisdiction. If a record is not found, the applicant is ''not returned as a match.''

23. An update was also added for the jurisdictions when no match is found for a driver in the Clearinghouse, CDLIS, or PDPS. If a violation record is not found in the Clearinghouse, the applicant is ''not returned as a match.'' In that case, a jurisdiction can issue a CDL. In addition, the jurisdiction must add the driver to CDLIS within a 10-day period beginning the date of license issuance, per §§ 383.73(h) and 384.207(a). The jurisdictions are provided guidance on using the SPEXS system to aid in utilizing CDLIS.

If no matches are returned form the verification inquiry in CDLIS, there is no error in CDLIS. The fact that the driver is requesting renewal indicates the driver should have an MPR on the CDLIS CS. The jurisdictions must contact the AAMVA operations help desk for assistance in determining why this situation occurred. No matches from PDPS indicates there are no

privileges. The ACD provides a single list of all codes that all the jurisdictions can understand and removes the need for a jurisdiction to map their laws and rules to the laws and rules of every other jurisdiction.

[23] The National Driver Registry is a central repository for collecting, maintaining, and distributing information of all drivers whose driving privileges were suspended, revoked, or denied by a State due to a Clearinghouse violation.

[24] Retention requirements are the time periods that a jurisdiction must keep specific types of data, such as conviction data.

[25] The ''ACD conviction'' is an adjudication of guilt for a traffic-safety or Federally mandated violation, as defined by FMCSA. The ACD is available on the internet at *https://www.aamva.org/technology/technology-standards/acd.*

problems with the driver. A no match from the Clearinghouse for a driver indicates there are no Clearinghouse violations that prohibit the driver from operating a CMV.

If the search inquiry or verification inquiry transactions return no matches from CDLIS for the driver, there is an error in CDLIS. The fact that the driver is requesting a CSOR indicates that the driver should have an MPR on the CDLIS CS. The jurisdictions must contact AAMVA operations help desk for assistance in resolving this situation.

24. Procedures were added for SDLAs to follow when a State performs an in-State withdrawal due to a Clearinghouse violation based on lack of compliance with the State's law or policies. This section includes three main procedures. The first procedure applies to the OSOR when the DHR only consists of an open-state withdrawal due to a Clearinghouse violation. The second procedure applies to the OSOR when the DHR includes an open in-State withdrawal due to a Clearinghouse violation along with other open convictions and/or withdrawals. The final procedure applies to the NSOR if a Clearinghouse violation is found.

In the third instance mentioned above, the SOR must use a State native code, which is only used for State violations, to perform the Clearinghouse in-State withdrawal. This type of withdrawal must not be transmitted in the CDLIS DHR. The jurisdictions performing these withdrawals must downgrade the CDL by removing the commercial driving privilege by changing the commercial status on the CDLIS driver record from LIC to a minimum of ELG for CDL holders, and similarly changing the permit status from LIC to a minimum to ELG for CLP holders.

The items below describing updates number 25 and 26 were made pursuant to the EEE final rule and will take effect beginning August 22, 2024. The EEE final rule codifies the statutory requirement for SDLAs to implement a system and practices for the exclusively electronic exchange of DHR information through CDLIS. This includes the posting of convictions, withdrawals, and disqualifications.

25. Updates were made to the procedures requiring the State of conviction (SOC)[26] or State of withdrawal (SOW)[27] to work with the SOR to ensure the timely posting of convictions and withdrawals when received outside CDLIS. In all cases, the jurisdictions must ensure convictions are reported to the SOR within time frames set out in §§ 384.208 and 384.209. The SOC must report convictions for out-of-State drivers, including failures of out-of-State drivers to appear, pay, or comply, within 10 days of the conviction date. The SOR has 10 days from the receipt date of an out-of-State conviction to post the conviction to the driver's record. The SOR has 10 days from the conviction date to post an in-State conviction. With the exception of ''W00''[28] withdrawals, the SOR must record all withdrawals received from another jurisdiction on the CDLIS DHR. Additionally, the jurisdictions have the ability to contact the AAMVA help desk for assistance.

26. The procedures requiring the OSOR to work with the NSOR to ensure the timely posing of convictions and withdrawals when received outside CDLIS were updated within the 10-day timeframe described above. If an OSOR receives an out-of-State conviction or withdrawal[29] outside of CDLIS for a driver with a CDLIS driver record, the OSOR and SOR or SOW must work together to ensure the conviction or withdrawal is posted promptly on the CDLIS driver record. A second update directs either the OSOR, NSOR, SOC, or SOW to request assistance from AAMVA's help desk, if necessary.

VII. Severability

Section 206 of MCSA (Pub. L. 98–554, title II, 98 Stat. 2832, 2834, codified at 49 U.S.C. 31136) directed the Secretary to regulate CMVs and the drivers and motor carriers that operate them. FMCSA is further required by statute to maintain an information system that serves as the clearinghouse and depository of information about the licensing, identification, and disqualification of operators of CMVs (49 U.S.C. 31309). CDLIS is the information system that serves that function.

The purpose of this rulemaking is to incorporate by reference version c.0 of the AAMVA SPM outlining guidance on the use of CDLIS. The provisions within the SPM (version c.0) are intended to operate holistically in addressing a range of issues necessary to ensure compliance with the information system procedures of the commercial driver's license program. However, FMCSA recognizes that certain provisions focus on unique topics. FMCSA finds that the various provisions within the SPM (version c.0) would be severable and able to operate functionally if one or more provisions were rendered null or otherwise eliminated. The remaining provision or provisions within the SPM (version c.0) would continue to operate functionally if any one or more provisions were invalidated and any other provision(s) remained. In the event a court were to invalidate one or more of the SPM's unique provisions, the remaining provisions should stand.

VIII. Section-by-Section Analysis

Part 384

Section 384.107. The Agency would revise paragraph (b) to incorporate by reference version c.0 of the CDLIS SPM.

Section 384.301. The Agency would add, as a conforming amendment, a new paragraph (p) specifying that the State must comply with the requirements of this rule by August 22, 2024.

IX. Regulatory Analyses

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory Review), E.O. 14094 (Modernizing Regulatory Review), and DOT Regulatory Policies and Procedures

FMCSA has considered the impact of this NPRM under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, E.O. 13563 (76 FR 3821, Jan. 21, 2011), Improving Regulation and Regulatory Review, and E.O. 14094 (88 FR 21879, Apr. 11, 2023) Modernizing Regulatory Review. The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) determined that this NPRM is not a significant regulatory action under section 3(f) of E.O. 12866, as supplemented by E.O. 13563 and amended by E.O. 14094 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. Accordingly, OMB has not reviewed it under that E.O.

This proposed rule updates the ''American Association of Motor Vehicle Administrators, Inc. Commercial Driver's License Information System State Procedures Manual, Version c.0'' manual. Specifically, it includes changes introduced to the FMCSRs as a result of the EEE and DACH II final rules. The proposed rule solely defines processes and procedures which ensure that other regulations are uniformly implemented and imposes no new regulatory requirements. The rule would impose no new costs, and any benefits that

[26] The SDLA jurisdiction which convicts a driver and maintains the original record of the conviction.

[27] The SDLA jurisdiction which withdraws a driver and maintains the original record of the withdrawal.

[28] W000 is the code used to indicate a withdrawal.

[29] Out-of-State convictions and withdrawals include the fifty States and the District of Columbia.

would result from it are expected to be de minimis.

B. Congressional Review Act

This rulemaking is not a *major rule* as defined under the Congressional Review Act (5 U.S.C. 801–808).[30]

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996,[31] requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term *small entities* comprise small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 (5 U.S.C. 601(6)). Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities, and mandates that agencies strive to lessen any adverse effects on these businesses.

When an Agency issues a proposed rule, the RFA requires the Agency to ''prepare an initial regulatory flexibility analysis'' that will describe the impact of the proposed rule on small entities (5 U.S.C. 604(a)). Section 605 of the RFA allows an agency to certify a rule, instead of preparing an analysis, if the rule is not expected to have a significant impact on a substantial number of small entities. This rulemaking incorporates by reference the September 2023 edition of the AAMVA CDLIS SPM (version c.0). The changes to the 2023 edition of the AAMVA CDLIS SPM (version c.0) from the 2013 edition are intended to ensure clarity in the presentation of the SDLA conditions and are generally editorial or ministerial. As noted above, FMCSA does not expect the changes made in the 2023 edition of the AAMVA CDLIS SPM (version c.0) to impose new costs or to result in quantifiable benefits, as it imposes no new regulatory requirements. The editorial and ministerial changes that would result from this proposed rule apply to SDLA processes and procedures; SDLAs are not small entities. Consequently, I certify that this proposed rule will not have a significant economic impact on a substantial number of small entities.

D. Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857), FMCSA wants to assist small entities in understanding this proposed rule so they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business Administration's Small Business and Agriculture Regulatory Enforcement Ombudsman (Office of the National Ombudsman, see *https://www.sba.gov/about-sba/oversight-advocacy/office-national-ombudsman*) and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of FMCSA, call 1–888–REG–FAIR (1–888–734–3247). DOT has a policy regarding the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.

E. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) requires Federal agencies to assess the effects of their discretionary regulatory actions. The Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of $192 million (which is the value equivalent of $100 million in 1995, adjusted for inflation to 2022 levels) or more in any 1 year. Though this NPRM would not result in such an expenditure, and the analytical requirements of UMRA do not apply as a result.

F. Paperwork Reduction Act

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

G. E.O. 13132 (Federalism)

A rule has implications for federalism under section 1(a) of E.O. 13132 if it has ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

FMCSA has determined that this rulemaking would not have substantial direct costs on or for States, nor would it limit the policymaking discretion of States. Nothing in this document preempts any State law or regulation. Therefore, this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Impact Statement.

H. Privacy

The Consolidated Appropriations Act, 2005,[32] requires the Agency to assess the privacy impact of a regulation that will affect the privacy of individuals. This NPRM would not require the collection of personally identifiable information (PII).

The Privacy Act (5 U.S.C. 552a) applies only to Federal agencies and any non-Federal agency that receives records contained in a system of records from a Federal agency for use in a matching program.

The E-Government Act of 2002,[33] requires Federal agencies to conduct a PIA for new or substantially changed technology that collects, maintains, or disseminates information in an identifiable form. No new or substantially changed technology would collect, maintain, or disseminate information as a result of this rulemaking. Accordingly, FMCSA has not conducted a PIA.

In addition, the Agency submitted a Privacy Threshold Assessment (PTA) to evaluate the risks and effects the proposed rulemaking might have on collecting, storing, and sharing personally identifiable information. The PTA was adjudicated by DOT's Chief Privacy Officer on Jan. 4, 2024.

I. E.O. 13175 (Indian Tribal Governments)

This rulemaking does not have Tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on

[30] A *major rule* means any rule that the OMB finds has resulted in or is likely to result in (a) an annual effect on the economy of $100 million or more; (b) a major increase in costs or prices for consumers, individual industries, geographic regions, Federal, State, or local government agencies; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets (5 U.S.C. 802(4)).

[31] Public Law 104–121, 110 Stat. 857, (Mar. 29, 1996).

[32] Public Law 108–447, 118 Stat. 2809, 3268, note following 5 U.S.C. 552a (Dec. 4, 2014).

[33] Public Law 107–347, sec. 208, 116 Stat. 2899, 2921 (Dec. 17, 2002).

the distribution of power and responsibilities between the Federal Government and Indian Tribes.

J. National Environmental Policy Act of 1969

FMCSA analyzed this proposed rule pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and determined this action is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1 (69 FR 9680), Appendix 2, paragraphs 6(s) and (t) of the order (69 FR 9703). The categorical exclusions in paragraphs 6(s) and (t) cover regulations regarding the CDL and related activities to assure CDL information is exchanged between States. The proposed requirements in this rule are covered by these CEs.

K. Rulemaking Summary

As required by 5 U.S.C. 553(b)(4), a summary of this rulemaking can be found in the Abstract section of the Department's Unified Agenda entry for this rulemaking at *https://www.reginfo.gov/public/do/eAgendaMain*.

List of Subjects in 49 CFR Part 384

Administrative practice and procedure, Alcohol abuse, Drug Abuse, Highway safety, Incorporation by reference, and Motor carriers.

In consideration of the foregoing, FMCSA proposes to amend 49 CFR part 384 as follows:

PART 384—STATE COMPLIANCE WITH COMMERCIAL DRIVER'S LICENSE PROGRAM

■ 1. The authority citation for part 384 continues to read as follows:

Authority: 49 U.S.C. 31136, 31301, *et seq.,* and 31502; secs. 103 and 215 of Pub. L. 106–159, 113 Stat. 1748, 1753, 1767; sec. 32934 of Pub. L. 112–141, 126 Stat. 405, 830; sec. 5524 of Pub. L. 114–94, 129 Stat. 1312, 1560; and 49 CFR 1.87.

■ 2. Revise § 384.107 to read as follows:

§ 384.107 Matter incorporated by reference.

(a) *Incorporation by reference.* Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at FMCSA and at the National Archives and Records Administration (NARA). Contact FMCSA at the Department of Transportation Library, 1200 New Jersey Ave. SE, Washington, DC 20590–0001; (202) 366–0746 . For information on the availability of this material at NARA, visit *www.archives.gov/federal-register/cfr/ibr-locations* or email *fr.inspection@nara.gov*. The material may be obtained from the sources in the following paragraph of this section.

(b) The American Association of Motor Vehicle Administrators (AAMVA), 4401 Wilson Boulevard, Suite 700, Arlington, VA 22203; (703) 522–1300; *www.aamva.org*.

(1) ''Commercial Driver's License Information System (CDLIS) State Procedures Manual,'' Version c.0, September 2023; approved for §§ 384.225(f) and 384.231(d).

(2) [Reserved]

■ 3. Amend § 384.301 by adding paragraph (p) to read as follows:

§ 384.301 Substantial compliance—general requirements.

* * * * *

(p) A State must come into substantial compliance with the requirements of subpart B of this part, which is effective as of [EFFECTIVE DATE OF FINAL RULE], as soon as practicable, but not later than August 22, 2024.

Issued under authority delegated in 49 CFR 1.87.

Sue Lawless,

Acting Deputy Administrator.

[FR Doc. 2024–03191 Filed 2–16–24; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[RTID 0648–XD481]

Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Amendment 21 to the Coastal Pelagic Species Fishery Management Plan

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

ACTION: Notice of availability of an amendment to a fishery management plan; request for comments.

SUMMARY: The Pacific Fishery Management Council has submitted Amendment 21 to the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) for review by the Secretary of Commerce. If approved, Amendment 21 would make a number of non-substantive, administrative changes to the CPS FMP including defining acronyms upon first use, adding hyperlinks, removing repetitive language, and rearranging sections for clarity and logical sequence. These changes, colloquially referred to as ''housekeeping'' changes, would not change the management of the fishery. This proposed amendment is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the CPS FMP, and other applicable laws. NMFS will consider public comments in deciding whether to approve, disapprove, or partially approve Amendment 21.

DATES: Comments on the notice of availability must be received by April 22, 2024 to be considered in the decision whether to approve, disapprove, or partially approve Amendment 21.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2023–0134, by the following method:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and type NOAA–NMFS–2023–0134 in the Search box (*note:* copying and pasting the FDMS Docket Number directly from this document may not yield search results). Click the ''Comment'' icon, complete the required fields, and enter or attach your comments.

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

Electronic Access

This rule is accessible via the internet on the Office of the Federal Register website at *https://www.federalregister.gov/.* Additionally, background information and documents are available on the Pacific Fishery Management Council's website at

https://www.pcouncil.org/actions/housekeeping-fmp-amendment/.

FOR FURTHER INFORMATION CONTACT: Katie Davis, Sustainable Fisheries Division, NMFS, (323) 372–2126, *katie.davis@noaa.gov;* or Jessi Doerpinghaus, Staff Officer, Pacific Fishery Management Council, (503) 820–2415, *jessi.doerpinghaus@noaa.gov.*

SUPPLEMENTARY INFORMATION: The coastal pelagic species (CPS) fishery in the U.S. exclusive economic zone off the West Coast is managed under the CPS Fishery Management Plan (FMP). The Pacific Fishery Management Council (Council) developed the CPS FMP pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.*). The Secretary of Commerce approved the CPS FMP and implemented the provisions of the plan through regulations at 50 CFR part 660, subpart I. Species managed under the CPS FMP include Pacific sardine, Pacific mackerel, jack mackerel, northern anchovy, market squid, and krill.

The Magnuson-Stevens Act requires each regional fishery management council to submit any amendment to an FMP to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an amendment to an FMP, immediately publish notification in the **Federal Register** that the amendment is available for public review and comment. This notice of availability announces that the proposed Amendment 21 to the CPS FMP is available for public review and comment. NMFS will consider the public comments received during the comment period described above in determining whether to approve, disapprove, or partially approve Amendment 21.

Background

At its April 2022 meeting, the Council initiated the preparation of an administrative amendment for the CPS FMP, the intention of which was to conduct an editorial revision of the document for clarity and consistency. The amendment was colloquially referred to as a ''housekeeping'' amendment. During the development of Amendment 20 on management categories (*see* 88 FR 42652, July 3, 2023), the Council's CPS Management Team had identified places within the CPS FMP where text could be edited to address inconsistencies in terminology and organization resulting from past revisions through various amendments to the FMP. The CPS Management Team developed, with input from the CPS Advisory Subpanel, a draft of proposed changes to the CPS FMP that was adopted by the Council for public review in November 2022. None of the proposed changes were intended to alter the management of the CPS fisheries. Between November 2022 and April 2023, the CPS Management Team and Council staff reviewed and continued to work on the draft to ensure that the proposed changes were within the administrative scope of this action. In April 2023, the Council adopted the proposed changes to the CPS FMP for recommendation to NMFS.

Summary of Proposed Administrative Changes to the Coastal Pelagic Species Fishery Management Plan

A complete list of the proposed changes in Amendment 21 to the CPS FMP is available on the Council website at *https://www.pcouncil.org/actions/housekeeping-fmp-amendment/.* In addition to minor editorial clarifications in the FMP, most of the proposed changes fall into the following categories:

Abbreviations and acronyms: All abbreviations and acronyms would be spelled out upon first use and then applied throughout the remainder of the FMP. A list of acronyms and their definitions would be added to the beginning of the document.

Hyperlinks: Hyperlinks to Council documents or the **Federal Register** would be inserted upon reference to an FMP amendment, final rule that implemented an FMP amendment, and associated regulations.

Chub mackerel: Chapter 1 of the CPS FMP establishes that Pacific mackerel is also known as ''chub'' mackerel. To employ consistent terminology throughout the document, the term ''chub'' would not be repeated with regard to Pacific mackerel.

Headings and Structure: Sections of the CPS FMP would be rearranged to achieve clarity and logical order, resulting in changes to the section headings and numbering to accurately and sequentially label their contents.

Organizational Terminology: Terminology would be updated consistent with changes in nomenclature that have occurred since the CPS FMP was written, such as those resulting from the 2007 reauthorization of the Magnuson-Stevens Act, the 2016 updates to the National Standard guidelines, and the consolidation of the NMFS Southwest and Northwest Regional Offices into the West Coast Region.

This Amendment would edit the CPS FMP for clarity and content, and make no changes to the management of CPS fisheries.

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

Dated: February 14, 2024.

Everett Wayne Baxter,

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

[FR Doc. 2024–03396 Filed 2–16–24; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 89, No. 34
Tuesday, February 20, 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 AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2022–0015]

Notice of Availability of Final Environmental Assessment and Finding of No Significant Impact for Release of Psyllaephagus euphyllurae for Biological Control of Olive Psyllid in the Contiguous United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that we have prepared a final environmental assessment and finding of no significant impact relative to permitting the release of the insect *Psyllaephagus euphyllurae* for biological control of olive psyllid (*Euphyllura olivina*) in the contiguous United States. Based on our finding of no significant impact, we have determined that an environmental impact statement need not be prepared.

FOR FURTHER INFORMATION CONTACT: Dr. Robert S. Pfannenstiel, Ph.D., Senior Entomologist, Biological Control, Pests, Pathogens and Biocontrol Permitting, Plant Health Programs, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1231; (301) 851–2198; email: *bob.pfannenstiel@usda.gov.*

SUPPLEMENTARY INFORMATION: The Animal and Plant Health Inspection Service (APHIS) is issuing permits for the release of the insect *Psyllaephagus euphyllurae* in the contiguous United States for the biological control of olive psyllid (*Euphyllura olivina*).

The olive psyllid is native to southern Europe. It was first detected in North America in 2007. By the time this psyllid was found on olives in southern California, it was widespread in the region. This pest feeds exclusively on the flower blossoms and growing tissue of olives, causing reductions in fruit set, with reductions in fruit yield as high as 60 percent reported in some parts of the Mediterranean Basin.

Permitting the release of *P. euphyllurae* is necessary to reduce the severity of damage to olives from infestations of olive psyllid. *P. euphyllurae* is a small, stingless parasitoid wasp specific only to olive psyllid. The adult wasp lays an egg inside the olive psyllid. The egg hatches and consumes the olive psyllid host. The *P. euphyllurae* then goes into prolonged dormancy as a preadult in the host mummy's remains until the following spring. The wasp poses no risk to humans, livestock, or wildlife.

On March 31, 2022, we published in the **Federal Register** (87 FR 18764, Docket No. 2022–0015) a notice [1] in which we announced the availability, for public review and comment, of an environmental assessment (EA) that examined the potential environmental impacts associated with the release of *P. euphyllurae* (Hymenoptera:Encyrtidae) in the contiguous United States for the biological control of olive psyllid (*Euphyllura olivine,* Hemiptera: Liviidae). Comments on the notice were required to be received on or before May 2, 2022. We received one comment on the EA by that date. It was in favor of the environmental release of *P. euphyllurae.*

In this document, we are advising the public of our finding of no significant impact (FONSI) regarding the field release of the insect, *P. euphyllurae,* for biological control of olive psyllid in the contiguous United States. Our finding, which is based on the EA, reflects our determination that release of *P. euphyllurae* for the biological control of olive psyllid in the contiguous United States will not have a significant impact on the quality of the human environment. Based on this finding, we have issued a permit for the release of *P. euphyllurae* for the biological control of olive psyllid in the contiguous United States.

The final EA and FONSI may be viewed on the *Regulations.gov* website (see footnote 1). Copies of the final EA and FONSI are also available for public inspection at 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 799–7039 to facilitate entry into the reading room. In addition, copies may be obtained by calling or writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

The final EA and FONSI have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*); (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508); (3) U.S. Department of Agriculture regulations implementing NEPA (7 CFR part 1b); and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 6th day of February 2024.

Michael Watson,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2024–03378 Filed 2–16–24; 8:45 am]

BILLING CODE 3410–34–P

[1] To view the notice, supporting documents, and the comment we received, go to *http://www.regulations.gov* and enter APHIS–2022–0015 in the Search field.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Child Nutrition Programs: Income Eligibility Guidelines

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the Department's annual adjustments to the Income Eligibility Guidelines to be used in determining eligibility for free and reduced price meals, free milk, and Summer Electronic Benefit Transfer benefits for the period from July 1, 2024 through June 30, 2025. These guidelines are used by schools, institutions, and facilities participating in the National School Lunch Program (and Commodity School Program), School Breakfast Program, Special Milk Program for Children, Child and Adult Care Food Program, and Summer Food Service Program. Beginning in 2024, they will also be used by States and Indian Tribal Organizations that administer the Summer Electronic Benefits Transfer for

Children Program. The annual adjustments are required by section 9 of the Richard B. Russell National School Lunch Act. The guidelines are intended to direct benefits to those children most in need and are revised annually to account for changes in the Consumer Price Index.

DATES: Applicable July 1, 2024.

FOR FURTHER INFORMATION CONTACT: Penny Burke, Program Monitoring and Operational Support Division, Child Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, 1320 Braddock Place, Suite 401, Alexandria, Virginia 22314, 303–844–0357.

SUPPLEMENTARY INFORMATION: This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), no recordkeeping or reporting requirements have been included that are subject to approval from the Office of Management and Budget.

This notice has been determined to be not significant and was not reviewed by the Office of Management and Budget in conformance with Executive Order 12866. The affected programs are listed in the Assistance Listings (*https://sam.gov/*) under No. 10.553, No. 10.555, No. 10.556, No. 10.558, and No. 10.559 and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 2 CFR part 415).

Background

Pursuant to sections 9(b)(1), 13A(h)(2), and 17(c)(4) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(1), 42 U.S.C. 1762(h)(2), and 42 U.S.C. 1766(c)(4)), and sections 3(a)(6) and 4(e)(1)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)(6) and 1773(e)(1)(A)), the Department annually issues the Income Eligibility Guidelines for free and reduced price meals for the National School Lunch Program (7 CFR part 210), the Commodity School Program (7 CFR part 210), School Breakfast Program (7 CFR part 220), Summer Food Service Program (7 CFR part 225), Child and Adult Care Food Program (7 CFR part 226), free milk in the Special Milk Program for Children (7 CFR part 215), and program benefits in the Summer EBT Program (7 CFR part 292). These eligibility guidelines are based on the Federal income poverty guidelines and are stated by household size. The guidelines are used to determine eligibility for free and reduced price meals, free milk, and Summer EBT benefits in accordance with applicable program rules.

Definition of Income

In accordance with the Department's policy as provided in the Food and Nutrition Service publication Eligibility Manual for School Meals, ''income,'' as the term is used in this notice, means income before any deductions such as income taxes, Social Security taxes, insurance premiums, charitable contributions, and bonds. It includes the following: (1) monetary compensation for services, including wages, salary, commissions or fees; (2) net income from nonfarm self-employment; (3) net income from farm self-employment; (4) Social Security; (5) dividends or interest on savings or bonds or income from estates or trusts; (6) net rental income; (7) public assistance or welfare payments; (8) unemployment compensation; (9) government civilian employee or military retirement, or pensions or veterans payments; (10) private pensions or annuities; (11) alimony or child support payments; (12) regular contributions from persons not living in the household; (13) net royalties; and (14) other cash income. Other cash income would include cash amounts received or withdrawn from any source including savings, investments, trust accounts and other resources that would be available to pay the price of a child's meal.

''Income'', as the term is used in this notice, does *not* include any income or benefits received under any Federal programs that are excluded from consideration as income by any statutory prohibition. Furthermore, the value of meals, milk, or EBT benefits to children shall not be considered as income to their households for other benefit programs in accordance with the prohibitions in section 12(e) of the Richard B. Russell National School Lunch Act and section 11(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1760(e) and 1780(b)).

The Income Eligibility Guidelines

The following are the Income Eligibility Guidelines to be effective from July 1, 2024 through June 30, 2025. The Department's guidelines for free meals and milk and reduced price meals were obtained by multiplying the year 2024 Federal income poverty guidelines by 1.30 and 1.85, respectively, and by rounding the result upward to the next whole dollar.

This notice displays only the annual Federal poverty guidelines issued by the Department of Health and Human Services because the monthly and weekly Federal poverty guidelines are not used to determine the Income Eligibility Guidelines. The chart details the free and reduced price eligibility criteria for monthly income, income received twice monthly (24 payments per year), income received every two weeks (26 payments per year) and weekly income.

Income calculations are made based on the following formulas: monthly income is calculated by dividing the annual income by 12; twice monthly income is computed by dividing annual income by 24; income received every two weeks is calculated by dividing annual income by 26; and weekly income is computed by dividing annual income by 52. All numbers are rounded upward to the next whole dollar. The numbers reflected in this notice for a family of four in the 48 contiguous States, the District of Columbia, Guam and the Territories represent an increase of 4.0 percent over last year's level for a family of the same size.

Authority: Section 9(b)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(1)(A)).

INCOME ELIGIBILITY GUIDELINES

[Effective from July 1, 2024 to June 30, 2025]

Household size	Federal poverty guidelines	Reduced price meals—185%					Free meals—130%				
	Annual	Annual	Monthly	Twice per month	Every two weeks	Weekly	Annual	Monthly	Twice per month	Every two weeks	Weekly
48 Contiguous States, District of Columbia, Guam, and Territories											
1	15,060	27,861	2,322	1,161	1,072	536	19,578	1,632	816	753	377
2	20,440	37,814	3,152	1,576	1,455	728	26,572	2,215	1,108	1,022	511
3	25,820	47,767	3,981	1,991	1,838	919	33,566	2,798	1,399	1,291	646

INCOME ELIGIBILITY GUIDELINES—Continued
[Effective from July 1, 2024 to June 30, 2025]

Household size	Federal poverty guidelines	Reduced price meals—185%					Free meals—130%				
	Annual	Annual	Monthly	Twice per month	Every two weeks	Weekly	Annual	Monthly	Twice per month	Every two weeks	Weekly
4	31,200	57,720	4,810	2,405	2,220	1,110	40,560	3,380	1,690	1,560	780
5	36,580	67,673	5,640	2,820	2,603	1,302	47,554	3,963	1,982	1,829	915
6	41,960	77,626	6,469	3,235	2,986	1,493	54,548	4,546	2,273	2,098	1,049
7	47,340	87,579	7,299	3,650	3,369	1,685	61,542	5,129	2,565	2,367	1,184
8	52,720	97,532	8,128	4,064	3,752	1,876	68,536	5,712	2,856	2,636	1,318
For each add'l family member, add	5,380	9,953	830	415	383	192	6,994	583	292	269	135
Alaska											
1	18,810	2,900	1,450	1,339	670	24,453	2,038	1,019	941	471	
2	25,540	47,249	3,938	1,969	1,818	909	33,202	2,767	1,384	1,277	639
3	32,270	59,700	4,975	2,488	2,297	1,149	41,951	3,496	1,748	1,614	807
4	39,000	72,150	6,013	3,007	2,775	1,388	50,700	4,225	2,113	1,950	975
5	45,730	84,601	7,051	3,526	3,254	1,627	59,449	4,955	2,478	2,287	1,144
6	52,460	97,051	8,088	4,044	3,733	1,867	68,198	5,684	2,842	2,623	1,312
7	59,190	109,502	9,126	4,563	4,212	2,106	76,947	6,413	3,207	2,960	1,480
8	65,920	121,952	10,163	5,082	4,691	2,346	3,571	3,296	1,648		
For each add'l family member, add	6,730	12,451	1,038	519	479	240	8,749	730	365	337	169
Hawaii											
1	17,310	32,024	2,669	1,335	1,232	616	22,503	1,876	938	866	433
2	23,500	43,475	3,623	1,812	1,673	837	30,550	2,546	1,273	1,175	588
3	29,690	54,927	4,578	2,289	2,113	1,057	38,597	3,217	1,609	1,485	743
4	35,880	66,378	5,532	2,766	2,553	1,277	46,644	3,887	1,944	1,794	897
5	42,070	77,830	6,486	3,243	2,994	1,497	54,691	4,558	2,279	2,104	1,052
6	48,260	89,281	7,441	3,721	3,434	1,717	62,738	5,229	2,615	2,413	1,207
7	54,450	100,733	8,395	4,198	3,875	1,938	70,785	5,899	2,950	2,723	1,362
8	60,640	112,184	9,349	4,675	4,315	2,158	78,832	6,570	3,285	3,032	1,516
For each add'l family member, add	6,190	11,452	955	478	441	221	8,047	671	336	310	155

Cynthia Long,

Administrator, Food and Nutrition Service.

[FR Doc. 2024–03355 Filed 2–16–24; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Pacific Northwest National Scenic Trail Advisory Council

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of meeting.

SUMMARY: The Pacific Northwest National Scenic Trail Advisory Council will hold public meetings according to the details shown below. The Council is authorized under the National Trails System Act (the Act) and operates in compliance with the Federal Advisory Committee Act (FACA). The purpose of the Council is to advise and make recommendations to the Secretary of Agriculture, through the Chief of the Forest Service, on matters relating to the Pacific Northwest National Scenic Trail (PNT) as described in the Act.

DATES: A virtual meeting will be held March 5, 2024, 10:00 a.m.–2:00 p.m., Pacific Standard Time (PST).

Written and Oral Comments: Anyone wishing to provide virtual oral comments must pre-register by 11:59 p.m. PST on February 27, 2024. Written public comments will be accepted up to 11:59 p.m. PST on February 27, 2024. Comments submitted after this date will be provided to the Forest Service, but the Council may not have adequate time to consider those comments prior to the meeting.

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

ADDRESSES: This meeting will be held virtually. The public may join virtually via the Zoom app or the internet using the link posted on the PNT Advisory Council Meetings web page: *https://www.fs.usda.gov/detail/pnt/working-together/advisory-committees/?cid=fseprd505622.* Council information and meeting details can be found at the following website: *https://www.fs.usda.gov/detail/pnt/working-together/advisory-committees/?cid=fseprd505622* or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written Comments: Written comments must be sent by email to *jeffrey.kitchens@usda.gov or* via mail (*i.e.,* postmarked) to Jeff Kitchens, 63095 Deschutes Market Road, Bend, Oregon 97701. The Forest Service strongly prefers comments be submitted electronically.

Oral Comments: Persons or organizations wishing to make oral comments must pre-register by 11:59 p.m. PST, February 27, 2024, and speakers can only register for one speaking slot. Oral comments must be sent by email to *jeffrey.kitchens@usda.gov* or via mail (*i.e.,* postmarked) to Jeff Kitchens, 63095 Deschutes Market Road, Bend, Oregon 97701.

FOR FURTHER INFORMATION CONTACT: Jeff Kitchens, Designated Federal Officer (DFO), by email at *jeffrey.kitchens@usda.gov* or phone at (458) 899–6185.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Approve meeting minutes;
2. Discuss implementation of the comprehensive plan for the PNT; and
3. Discuss and identify future PNT Advisory Council activity.

The agenda will include time for individuals to make oral statements of three minutes or less. Individuals wishing to make an oral statement should make a request in writing at least three days prior to the meeting date to be scheduled on the agenda. Written comments may be submitted to the Forest Service up to 14 days after the meeting date listed under **DATES**.

Please contact the person listed under **FOR FURTHER INFORMATION CONTACT**, by or before the deadline, for all questions related to the meeting. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received upon request.

Meeting Accommodations: The meeting location is compliant with the Americans with Disabilities Act, and the USDA provides reasonable accommodation to individuals with disabilities where appropriate. If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpretation, assistive listening devices, or other reasonable accommodation to the person listed under the **FOR FURTHER INFORMATION CONTACT** section, or contact USDA's TARGET Center at (202) 720–2600 (voice and TTY) or USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

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

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

Dated: February 13, 2024.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2024–03325 Filed 2–16–24; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

[Docket #: RBS–23–Business–0029]

Notice of Funding Opportunity for Rural Energy for America Program Technical Assistance Grant Program for Fiscal Year 2024

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Business-Cooperative Service (RBCS or the Agency), a Rural Development (RD) agency of the United States Department of Agriculture (USDA), announces that it is accepting applications under the Rural Energy for America (REAP) Technical Assistance Grant (TAG) Program for fiscal year (FY) 2024. These grant funds will be made to qualified types of Applicants (''Applicants'') to provide technical assistance to Agricultural Producers and Rural Small Businesses applying to REAP (''REAP Applicants''), with priority for applications that: assist Agricultural Producers and Tribal entities, provide assistance to projects located in a Disadvantaged Community or a Distressed Community, support projects using Underutilized Renewable Energy Technologies (''Underutilized Technologies''), and/or support grant applications of $20,000 or less. This Program has $16,000,000 available for FY 2024 utilizing funding provided under the Inflation Reduction Act of 2022. All Applicants are responsible for any expenses incurred in developing their applications.

DATES: Completed applications for grants must be submitted electronically via *https://www.Grants.gov* or to the USDA RD State Office (RDSO) State Energy Coordinator of the State where the project is located via email no later than 11:59 p.m. Eastern Time (ET) on March 15, 2024. The RDSO State Energy Coordinator for the applicable State can be found at: *https://www.rd.usda.gov/contact-us/state-energy-coordinators.*

ADDRESSES: This funding announcement will be announced on *https://www.Grants.gov.*

Entities wishing to apply for assistance may download the application documents and requirements provided in this notice from *https://www.Grants.gov.* Application information for electronic submissions may be found at **FOR FURTHER INFORMATION CONTACT**: Jonathan Burns at *jonathan.burns@usda.gov,* Business Loan and Grant Analyst, Direct Programs Branch, RBCS, USDA, (774) 678–7238.

For further information on submitting program applications under this notice, please contact the RDSO in the state where the Applicant's headquarters is located. A list of RDSO contacts is provided at the following link: *https://www.rd.usda.gov/about-rd/state-offices.*

SUPPLEMENTARY INFORMATION:

Overview

Federal Awarding Agency Name: Rural Business-Cooperative Service (RBCS).

Funding Opportunity Title: Rural Energy for America (REAP) Technical Assistance Grant (TAG) Program.

Announcement Type: Notice of Funding of Opportunity (NOFO).

Funding Opportunity Number: RD–BCP–24–TAG–REAP.

Assistance Listing: 10.868.

Dates: Electronic submissions must be made no later than 11:59 p.m. ET on March 15, 2024. Late or incomplete applications will not be eligible for funding.

A. Program Description

1. *Purpose of the Program.* The purpose of the REAP TAG Program is to enable Applicants to provide technical assistance to Agricultural Producers and Rural Small Businesses applying to REAP, with priority for applications assisting at least two or more of the following types of REAP Applicants: (a) Agricultural Producers, (b) REAP applicants pursuing projects located in disadvantaged or distressed communities, (c) Tribal entities, (d) REAP Applicants pursuing projects using Underutilized Technologies, and (e) REAP Applicants pursuing projects under $20,000. To meet this purpose, the Agency will make grants to eligible entities to provide services to assist potential REAP Applicants in submitting Complete Applications.

2. *Statutory and Regulatory Authority.* The REAP TAG Program is authorized under the Inflation Reduction Act of 2022 (Pub. L. 117–169, ''IRA''), Title II, Subtitle C, Section 22002(b), and will be administered by RBCS.

3. *Definitions.* The definitions and abbreviations applicable to this notice are published at 7 CFR 4280.103.

For purposes of this Notice only, Underutilized Renewable Energy Technologies (''Underutilized

Technologies'') are defined as those technologies that make up less than 20 percent of the total grant dollars obligated at the end of the FY, two (2) years previous to the current year. For example, FY 2022 award data will be utilized to determine which technologies are Underutilized Technologies for the FY 2024 competition. The eligible Underutilized Technologies will be fixed at the time of award for the duration of the period of performance.

For awareness, the number of employees calculation used to determine the size of a business concern in the definition of Small Business is being updated to 24 months versus 12 months, to align with recent changes made by the Small Business Administration.

4. *Application of Awards.* The Agency will review, evaluate, and score applications as indicated in this notice. Awards under the REAP TAG Program will be made on a competitive basis using specific selection criteria contained in Section E.1. of this notice. The Agency advises all interested parties that the Applicant bears the full burden in preparing and submitting an application in response to this notice.

B. Federal Award Information

Type of Awards: Grants.

Fiscal Year Funds: FY 2024.

Available Funds: The FY 2024 total funding amount is $16,000,000. RBCS may, at its discretion, increase the total level of funding available in this funding round, or in any category in this funding round, from any available source provided the awards meet the requirements of the statute which made the funding available to the Agency. Based on projected need for REAP technical assistance grants as determined on a state-by-state basis by each RDSO, funding will be provided as follows:

The following States will make $250,000 available for the REAP TAG Program: Alabama, Arizona, Arkansas, California, Colorado, Florida/United States Virgin Islands, Georgia, Idaho, Indiana, Kentucky, Louisiana, Maine, Delaware, Maryland, Mississippi, Nebraska, Nevada, New Jersey, North Carolina, North Dakota, Puerto Rico, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, and Wyoming.

The following States will make $500,000 available for the REAP TAG Program: Alaska, Connecticut, Kansas, Massachusetts, Missouri, Montana, New Hampshire, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Vermont, West Virginia, and Wisconsin.

No REAP TAG funds will be available in Hawaii and Western Pacific, Illinois, Iowa, Michigan, or Minnesota. Instead, these States will receive equivalent assistance in the form of additional staffing resources outside of this funding announcement. Applications filed in these States will not be eligible for funding.

All remaining unobligated funds at the end of FY 2024 will be used for the Underutilized Technologies Fund established in the **Federal Register** notice 88 FR 19239, Notice of Solicitation of Applications (NOSA) for the Rural Energy for America Program for FYs 2023 and 2024, published on March 31, 2023.

Award Amounts: A grant award will not exceed $250,000 or $500,000 depending on the State or territory (see Available funds section above). A single Applicant will not be granted more than one (1) grant award. RDSOs may select a single or multiple Applicants that are awarded a REAP TAG grant in each state or territory. No award amount of less than $100,000 will be made.

Anticipated Award Date: Awards will be made before June 30, 2024.

Performance Period: The grant period is at the discretion of the Applicant but can be no longer than three (3) years from the date of the award. Additional funding opportunity announcements may be made in future years.

Renewal or Supplemental Awards: Applicants may apply for funding in future funding cycles. No unfunded applications will carry over to the next funding cycle. Applicants must re-apply for an additional grant, and receipt of past REAP TAG Program awards does not guarantee receipt of future awards. Applicants applying that have previously received a REAP TAG award must be performing at a satisfactory level as determined by the Agency at the TAG application date, including but not limited to meeting the budget, timelines, reporting, goals, and objectives as defined in the previous REAP TAG award work plan.

Type of Assistance Instrument: Financial Assistance Agreement.

C. Eligibility Information

1. *Eligible Applicants.* Eligible Applicants must meet the eligibility requirements, as applicable, specified in paragraphs (a) through (c) of this section.

(a) Eligible Applicants are:

(1) A unit of State, Tribal, or local government or an instrumentality of a State, Tribal, or local government;

(2) A land-grant college or university, or other Institution of Higher Education;

(3) A rural electric cooperative;

(4) A Public Power Entity;

(5) A Council, as defined under the Resource Conservation and Development Program, at 16 U.S.C. 3451.

(6) A Not-for-profit entity;

(b) The Applicant must have sufficient capacity to perform the activities proposed in the application to ensure success as determined by the Agency. The Agency will make this assessment based on the information provided in the application and any additional requests for clarifying information.

(c) The Applicant must have the legal authority necessary to apply for and carry out the purpose of the grant.

2. *Cost Sharing or Matching.* There are no cost sharing or matching requirements associated with this grant.

3. *Other.* All submitted applications must meet the eligibility requirements in this notice. Applications will not be considered for funding if they do not provide sufficient information to determine eligibility or are missing required elements. Applicants will apply for a single state or territory in which they intend to complete work. Applicants that serve Tribes or Tribal entities located in multiple states are permitted to provide technical assistance to those Tribes and Tribal entities in multiple states. Applicants may not apply in multiple states or territories. Only one application will be accepted per applicant. Applications requesting more than the maximum grant amount or less than the minimum grant amount will not be eligible.

(a) *Eligible Activities.* Includes recruitment of Renewable Energy or energy efficiency projects, identification and/or use of electrical engineering services related to generating complete REAP applications, preparation of REAP applications for Agency financial assistance, as well as preparing reports and assessments necessary to request financial assistance. Contracted services are allowable. All activities must be directly related to providing technical assistance to Agricultural Producers or Rural Small Businesses to apply for assistance under REAP. Eligible activities include but are not limited to:

(1) Assisting Agricultural Producers or Rural Small Businesses to apply for assistance under REAP for Energy Efficiency Improvements, or Renewable Energy Systems.

(2) Providing information on how to improve the energy efficiency of the operations and to use Renewable Energy technologies and resources in their operations.

(3) Conducting and promoting Energy Assessments and energy audits as

defined in 7 CFR 4280.103 or other electrical engineering services necessary to complete a REAP application.

(4) Preparing a technical report in accordance with 7 CFR 4280.110(g).

(5) Assisting with filing for System Award Management (SAM and Unique Entity Identifier (UEI)) registrations.

(6) Assisting with completing a REAP grant application in accordance with 7 CFR 4280.116.

(7) Assisting with planning construction and performance development in accordance with 7 CFR 4280.125.

(8) Assisting with completion of environmental reports and/or documentation required for submittal of applications.

(9) Assisting Tribal entities to determine applicant and project eligibility.

(b) *Ineligible activities.* Includes, but are not limited to:

(1) Projects where funding is not targeted directly to assisting Agricultural Producers or Rural Small Businesses.

(2) Projects which propose to provide Energy Audits or Renewable Energy Development Assistance for residential purposes.

(c) *Eligible Project Costs.* Those costs incurred after the date the Financial Assistance Agreement has been executed and that are directly related to technical assistance to Agricultural Producers or Rural Small Businesses to apply for assistance under REAP, which include but are not limited to:

(1) Salaries, including fringe benefits;

(2) Travel expenses;

(3) Office supplies (*e.g.,* paper, pens, file folders, items with per unit acquisition cost of $5,000 or less with a useful life of 1 year or less); and

(4) Indirect cost of up to a maximum of 5 percent for administering the grant, regardless of existing negotiated cost rates.

(d) *Ineligible Project Costs.* Includes, but are not limited to:

(1) Payment for any construction-related activities;

(2) Purchase or lease of equipment;

(3) Payment of any judgment or debt owed to the United States;

(4) Any goods or services provided by a Person or entity who has a conflict of interest as provided in 7 CFR 4280.106;

(5) Any costs of preparing the application package for funding under this notice;

(6) Funding of political or lobbying activities; and

(7) Payment or waiver of student tuition.

(e) *Do Not Pay.* The Agency will check the Do Not Pay portal to determine if the Applicant has been debarred or suspended at the time of application and also prior to funding any grant award.

D. Application and Submission Information

1. *Address to Request Application Package.* Application information is available at *https://www.grants.gov/* and *https://www.rd.usda.gov/programs-services/energy-programs/rural-energy-america-technical-assistance-grant-program.*

2. *Content and Form of Application Submission.* An application must contain all the required elements outlined in paragraphs (a) through (f) of this section. The project will be determined incomplete and will not be eligible to compete for funding should these elements not be complete. Each application must address the applicable scoring criteria presented in Section E.1. of this notice for the type of funding being requested.

(a) Form SF–424, Application for Federal Assistance (For Non-Construction).

(b) Form SF 424A, Budget Information—Non-Construction Programs.

(c) Certification that the Applicant is a legal entity in good standing (as applicable) and operating in accordance with the laws of the State(s) or Tribe where the Applicant has a place of business.

(d) The Applicant must identify whether the Applicant has a known relationship or association with an Agency employee. If there is a known relationship, the Applicant must identify each Agency employee with whom the Applicant has a known relationship.

(e) A proposed scope of work to include the items listed in paragraphs (1) to (10) of this section. The proposed scope of work must be typed, single-spaced, in 11-point font, not to exceed 12 8.5 x 11″ pages.

(1) A brief summary, including a project title, describing the proposed project;

(2) Goals of the proposed project;

(3) Geographic scope or service area of the proposed project and the method and rationale used to select the service area;

(4) Identification of the specific needs for the service area and the target audience to be served. List or describe the types of technical assistance and proposed services to be provided. State the number of Agricultural Producers and/or Rural Small Businesses to be served and identified, including name and contact information, if available, as well as the method and rationale used to select the Agricultural Producers and/or Rural Small Businesses;

(5) Timeline describing the proposed tasks to be accomplished and the schedule for implementation of each task. Include whether organizational staff, consultants, or contractors will be used to perform each task;

(6) Marketing strategies to include a discussion on how the Applicant will be marketing and providing outreach activities to the proposed service area ensuring that Agricultural Producers and/or Rural Small Businesses are served;

(7) Applicant's experience as follows:

(i) The Applicant's experience in completing similar activities, such as Renewable Energy Site Assessments, Energy Assessments or Audits, and Renewable Energy Technical Assistance provided directly to Agricultural Producers and Rural Small Businesses or Tribal entities, including the number of similar projects the Applicant has performed and the number of years the Applicant has been performing a similar service. Include personnel on staff or to be contracted to provide the service and their experience with similar projects.

(ii) The amount of experience in administering similar activities as applicable to the purpose of the proposed project. Provide commentary if the Applicant has any existing programs that can demonstrate the achievement of energy savings or energy generation with Agricultural Producers and/or Rural Small Businesses the Applicant has served. If the Applicant has received one or more accolades within the last 5 years in recognition of its Renewable Energy, energy savings, or energy-based technical assistance, please describe the achievement(s).

(iii) The Applicant's experience working with Agricultural Producers, Tribal entities, and/or disadvantaged or distressed communities.

(8) Latest financial information to show the Applicant's financial viability to carry out the proposed work. A current audit report is preferred; however, Applicants not subject to 2 CFR 200, subpart F may submit a current (less than 90 days from date of application) balance sheet, income statement, and statement of cash flows in lieu of an audit report.

(9) Itemized budget including contracted services and itemized staff salaries and benefits; and estimated breakdown of costs, including those to be funded by the Applicant as well as other sources. Sufficient detail should be provided to permit the approval official to determine reasonableness, applicability, and allowability.

(10) Summarize the Applicant's capacity to perform the proposed technical assistance activities including a summary of all other programs and activities the Applicant will also perform during the proposed project performance period.

(f) Documentation on each of the scoring criteria listed in Section E.1. of this notice. Documentation in support of scoring criteria must be typed, single-spaced, in an 11-point font, not to exceed 12 8.5 x 11″ pages. Acceptable file types include .doc, .docx, .pdf, .jpg, .jpeg, .png, .gif, .xls, .xlsx, .txt, .ppt, and .pptx. If the Applicant would like to submit another file type, please contact the RDSO first for approval.

3. *System for Award Management and Unique Entity Identifier.*

(a) At the time of application, each Applicant must have an active registration in the System for Award Management (SAM) in accordance with 2 CFR part 25.

(b) Applicants must maintain an active SAM registration, with current, accurate and complete information, at all times during which it has an active Federal award or an application under consideration by a Federal awarding agency.

(c) Applicant must ensure they complete the Financial Assistance General Certifications and Representations in SAM.

(d) Applicants must provide a valid Unique Entity Identifier (UEI) on the SF 424 form submitted as part of a complete application.

(e) The Agency will not make an award until the Applicant has complied with all SAM requirements including providing the UEI. If an Applicant has not fully complied with the requirements by the time the Agency is ready to make an award, the Agency may determine that the Applicant is not qualified to receive a federal award and use that determination as a basis for making a Federal award to another Applicant.

4. *Submission Dates and Times.*

(a) *Application Technical Review.* Prior to official submission of applications, Applicants may request technical reviews or other application guidance from the Agency, as long as such requests are made prior to March 1, 2024. Agency contact information can be found in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

(b) *Application Deadline Date.*

Electronic submissions via *https://www.Grants.gov* or to a RDSO State Energy Coordinator via email must be received no later than 11:59 p.m. ET on March 15, 2024. The State Energy Coordinator in the applicable State to be eligible for funding under this grant opportunity contact list can be found at: *https://www.rd.usda.gov/contact-us/state-energy-coordinators*

(c) *Applications Received After Deadline Date.* If complete applications are not received by the March 15, 2024, deadline, the application will neither be reviewed nor considered for funding under any circumstances. The Agency will not solicit or consider new scoring or eligibility information that is submitted after the application deadline. RBCS reserves the right to ask Applicants for clarifying information and additional verification of assertions in the application.

5. *Funding Restrictions.* Applications must be for eligible purposes as defined above.

E. Application Review Information

1. *Criteria.* All eligible and Complete Applications will be evaluated and scored based on the selection criteria and weights outlined in this section. Failure to address any one of the criteria by the application deadline will result in the application being determined ineligible, and the application will not be considered for funding. Documentation in support of scoring criteria must be typed, single-spaced, in an 11-point font, not to exceed 12 8.5 × 11″ pages.

(a) *Experience.* A maximum of 20 points will be awarded for this criterion. Applicants should provide a narrative description of their organizational and aggregate staff experience at implementing successful technical assistance programs. Applicants can discuss internal and contracted experience.

(1) Applicants should note prior projects or experience related to energy efficiency, Renewable Energy Systems, federal funding, and the provision of technical assistance. Up to 15 points will be awarded based on years of successful implementation as well as the type and quality of the work by the Applicant.

(i) More than 10 years of successful implementation, 15 points will be awarded;

(ii) More than 5 years to less than 10 years of successful implementation, 10 points will be awarded;

(iii) More than 3 to less than 5 years of successful implementation, 5 points will be awarded;

(iv) More than 1 to less than 3 years of successful implementation, 3 points will be awarded; or

(v) Applicants with less than 1 year of experience, 0 points will be awarded.

(2) Applicants should note prior projects or experience working with the types of REAP Applicants it seeks to support (*e.g.* Agricultural Producers, Tribal entities, and/or disadvantaged or distressed communities). Up to 5 points will be awarded based on previous successful implementation related to work with proposed REAP Applicant types it seeks to support.

(b) *Soundness of approach.* A maximum of 30 total points will be awarded for this criterion. A maximum of 15 points will be awarded for each criterion listed below. Applicants should address each component with a brief narrative response.

(1) Work plan clearly articulates a well thought out approach to accomplishing objectives & clearly identifies who will be served by the project and demonstrates knowledge of and experience working with those served; (Tribal entities, Rural Small businesses and Agricultural Producers)—0 to 15 points will be awarded; and

(2) Goals & objectives are clearly defined, tied to the need as defined in the work plan, and are measurable in terms of new applications generated—0 to 15 points will be awarded.

(c) *Recruitment of Priority REAP Projects.* 20 points will be awarded for this criterion. Applicants should provide a narrative addressing which of the following priority REAP project(s) will be targeted and how those project(s) will be targeted. Exactly 20 points will be awarded for Applicants' satisfactory targeting of at least two of the following priorities:

(1) Projects requesting $20,000 or less in REAP funds.

(2) Projects located in a Disadvantaged Community or a Distressed Community. A Disadvantaged Community will be determined by the Agency by using the Council on Environmental Quality's Climate and Economic Justice Screening Tool (which is incorporated into the USDA look-up map) which identifies communities burdened by climate change and environmental injustice. Additionally, all communities within the boundaries of Federally Recognized Tribes and Alaska Native Villages will also be determined to be Disadvantaged Communities by the Agency. A Distressed Community will be determined by the Agency by using the Economic Innovation Group's Distressed Communities Index (which is incorporated into the USDA look-up map), which uses several socio-economic measures to identify communities with low economic well-being. To determine if your project is

located in a Disadvantaged Community or a Distressed Community, please use the following USDA look-up map: *https://ruraldevelopment.maps.arcgis.com/apps/webappviewer/index.html?id=4acf083be4c44bb7864d90f97de0c788.*

(3) Projects submitted by Tribes and/or proposing to serve primarily Tribal entities.

(4) Projects submitted by Agricultural Producers.

(5) Projects seeking funding for Underutilized Technologies, as defined in Section A.3 of this notice.

(d) *Performance measures.* A maximum of 10 points will be awarded for this criterion. Applicants can receive up to 10 points based on the proposed performance measures to evaluate the progress and impact of the proposed project. Performance measures should be based on the Applicant's proposed scope of work as described in Section D.2(g) of this notice and must include a description for how the results of the technical assistance will be measured and the benchmarks to be used for measuring effectiveness. Indicators to be used should be specific and quantifiable.

(e) *State Director discretionary points.* The State Director may award up to 20 discretionary points to address geographic distribution of funds, ensure selection of Priority REAP Projects as described in Section E.1(c) of this notice that meet the needs of the respective state or region, or if selecting the application helps further a Presidential initiative or a Secretary of Agriculture priority (*https://www.rd.usda.gov/priority-points/rural-development-priorities-fy-2024*).

2. *Review and Selection Process.* The Agency will review applications to determine if applications are eligible for assistance based on the eligibility requirements in Section C of this notice. Applicants meeting those eligibility requirements will be scored based on the criteria in Section E.1. of this notice. Only those meeting the minimum score of 40 points will be considered for funding. The total maximum points that an Applicant may receive is 100 points. Applications will be evaluated based only on required information submitted by the Applicant in the application. All applications that are complete and eligible will be scored and ranked competitively against all other applications received in a particular state by the Agency. The Agency reserves the right to offer the Applicant less than the grant funding requested.

Funding of projects is subject to the Applicant's satisfactory submission of the additional items required by Section F and the USDA RD Letter of Conditions.

F. Federal Award Administration Information

1. *Federal Award Notices.* Successful Applicants will receive notification for funding from the RDSO. Applicants must comply with all applicable statutes and regulations before the grant award can be approved.

2. *Administrative and National Policy Requirements.*

In addition, all recipients of Federal financial assistance are required to report information about executive compensation (see, 2 CFR part 170 (*https://www.ecfr.gov/current/title-2/part-170*). The Applicant will be required to have the necessary processes and systems in place to comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282) and reporting requirements (see, 2 CFR 170.200(b) (*https://www.ecfr.gov/current/title-2/subtitle-A/chapter-I/part-170/subpart-B/section-170.200*), unless the recipient is exempt under 2 CFR 170.110(b) (*https://www.ecfr.gov/current/title-2/subtitle-A/chapter-I/part-170/subpart-A/section-170.110*).

The following additional requirements apply to Applicants selected for this program:

(a) Form RD 1940–1, ''Request for Obligation of Funds.''

(b) Form RD 1942–46, ''Letter of Intent to Meet Conditions.''

(c) Form SF–LLL, ''Disclosure of Lobbying Activities,'' if applicable.

(d) Form SF 270, ''Request for Advance or Reimbursement.''

(e) Form RD 400–4, ''Assurance Agreement'' must be completed by the Applicant.

(f) Form RD 400–1, ''Equal Opportunity Agreement.''

(g) Grantees must collect and maintain data provided by REAP Applicants on race, sex, and national origin. Race and ethnicity data will be collected in accordance with OMB **Federal Register** notice, ''Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity'' (62 FR 58782), October 30, 1997. Sex data will be collected in accordance with title IX of the Education Amendments of 1972. These items should not be submitted with the application but should be available upon request by the Agency.

(h) The Applicant must comply with title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, Americans with Disabilities Act (ADA), section 504 of the Rehabilitation Act of 1973, Age Discrimination Act of 1975, Executive Order 12250, Executive Order 13166 Limited English Proficiency (LEP), and 7 CFR part 1901, subpart E.

3. *Grant Disbursement.* The Agency will disburse grant funds on a reimbursement basis. A form SF–270 must be completed by the grantee and submitted to the Agency, along with adequate documentation to support costs charged to the Federal award that comply with 2 CFR 200 subpart E, no more often than monthly to request their reimbursement of funds.

4. *Reporting.*

(a) *Project Performance/Reporting.* After grant approval and through grant completion, awardees will be required to provide the following, as indicated in the Financial Assistance Agreement:

(1) Federal Financial Report, Form SF–425, and a project performance report will be required on a semiannual basis (due 30 working days after end of the semiannual period). For the purposes of this grant, semiannual periods end on March 31st and September 30th. The project performance reports shall include the elements prescribed in the Financial Assistance Agreement, including, as appropriate, but not limited to:

(i) A description of the activities that the funds reflected in the financial status report were used for including the number of recipients (Agricultural Producers and Rural Small Businesses) assisted, and the type of assistance provided, a list of recipients with each recipient's North American Industry Classification System (NAICS) code, the location of each recipient, and Renewable Energy technology that would be used or Energy Efficiency Improvement if the projects were implemented. Also provide the number of and identify the recipients who submitted REAP grant applications and the recipients receiving REAP grant awards (noting those with disadvantaged or distressed community status and underutilized technology status).

(ii) A comparison of actual accomplishments to the objectives for that period;

(iii) Reasons why established objectives were not met, if applicable;

(iv) Problems, delays, or adverse conditions which will affect attainment of overall program objectives, prevent meeting time schedules or objectives, or preclude the attainment of objectives during established time periods. This disclosure shall be accomplished by a Statement of the action taken or planned to resolve the situation;

(v) Objectives and timetables established for the next reporting period;

(vi) A demographic summary of the of the agricultural producers and business owners receiving the technical assistance.

(2) A final project and financial status report within 90 days after the expiration or termination of the grant.

(3) Outcome project performance report. One year after project completion, awardees must provide a project performance report describing their outcomes as related to REAP TAG Program goals as identified in your Financial Assistance Agreement. The final report will also address the following:

(i) The most challenging or unexpected aspects of this grant.

(ii) What advice you would give to other organizations applying for this grant.

(iii) The strengths and limitations of this grant.

(iv) If you had the opportunity, what would you have done differently?

(v) Are there any post-grant plans for this Project?

The report is due 60 days after the first full year following the year in which the expansion project was completed.

G. Federal Awarding Agency Contact(s)

For general questions about this announcement, please contact your RDSO as provided in the **ADDRESSES** section of this notice or the program website at: *https://www.rd.usda.gov/reap*.

H. Other Information

1. *Paperwork Reduction Act.* In accordance with the Paperwork Reduction Act of 1995, the information collection requirements associated with the program, as covered in this notice, have been approved by the Office of Management and Budget (OMB) under OMB Control Number 0503–0028.

2. *National Environmental Policy Act.* All Applicants under this notice are subject to the requirements of 7 CFR 1970, available at: *https://rd.usda.gov/resources/environmental-studies/environmental-guidance.* However, awards for technical assistance and training under this notice are classified as a Categorical Exclusion according to 7 CFR 1970.53(b), and usually do not require any additional documentation. RBCS will review each grant application to determine its compliance with 7 CFR part 1970. The Applicant may be asked to provide additional information or documentation to assist RBCS with this determination.

3. *Federal Funding Accountability and Transparency Act.* All Applicants, in accordance with 2 CFR part 25, must be registered in SAM and have a UEI number as stated in Section D.3 of this notice. All recipients of Federal financial assistance are required to report information about first-tier sub-awards and executive total compensation in accordance with 2 CFR part 170.

4. *Civil Rights Act.* All grants made under this notice are subject to Title VI of the Civil Rights Act of 1964 as required by the USDA (7 CFR part 15, subpart A—Nondiscrimination in Federally-Assisted Programs of the Department of Agriculture—Effectuation of Title VI of the Civil Rights Act of 1964) and Section 504 of the Rehabilitation Act of 1973, Title VIII of the Civil Rights Act of 1968, Title IX, Executive Order 13166 (Limited English Proficiency), Executive Order 11246, and the Equal Credit Opportunity Act of 1974.

5. *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, or staff office or the 711 Relay Service.

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*.

USDA is an equal opportunity provider, employer, and lender.

Kathryn E. Dirksen Londrigan,

Administrator, Rural Business-Cooperative Service, USDA Rural Development.

[FR Doc. 2024–03333 Filed 2–16–24; 8:45 am]

BILLING CODE 3410–XY–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Minnesota Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: Commission on Civil Rights.

ACTION: Notice of public meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the Minnesota Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a public meeting via Zoom at 1:00 p.m. CT on Tuesday, April 2, 2024. The purpose of this meeting is to discuss the Committee's report, *Examining Fair Housing and Equal Access to Housing Opportunities in Minnesota.*

DATES: Tuesday, April 2, 2024, from 1:00 p.m.–2:15 p.m. Central Time.

ADDRESSES: The meeting will be held via Zoom Webinar.

Registration Link (Audio/Visual): https://www.zoomgov.com/webinar/register/WN_JgQhlf83QviglF4Ky9vEpQ.

Join by Phone (Audio Only): (833) 435–1820 USA Toll-Free; Meeting ID: 160 264 8007.

FOR FURTHER INFORMATION CONTACT: Ana Victoria Fortes, Designated Federal Officer, at *afortes@usccr.gov* or (202) 519–2938.

SUPPLEMENTARY INFORMATION: This committee meeting is available to the public through the registration link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Per the Federal Advisory Committee Act, public

minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Closed captioning will be available for individuals who are deaf, hard of hearing, or who have certain cognitive or learning impairments. To request additional accommodations, please email Liliana Schiller, Support Services Specialist, at *lschiller@usccr.gov* at least 10 business days prior to the meeting.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Ana Victoria Fortes at *afortes@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meetings will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Minnesota Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at *lschiller@usccr.gov.*

Agenda

I. Welcome & Roll Call
II. Discussion: Review Report
III. Public Comment
IV. Next Steps
V. Adjournment

Dated: February 14, 2024.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2024–03391 Filed 2–16–24; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Minnesota Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: Commission on Civil Rights.

ACTION: Notice of public meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the Minnesota Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a public meeting via Zoom at 1:00 p.m. CT on Wednesday, April 10, 2024. The purpose of this meeting is to discuss the Committee's report, *Examining Fair Housing and Equal Access to Housing Opportunities in Minnesota.*

DATES: Wednesday, April 10, 2024, from 1:00 p.m.–2:15 p.m. Central Time.

ADDRESSES: The meeting will be held via Zoom Webinar.

Registration Link (Audio/Visual): https://www.zoomgov.com/webinar/register/WN_hhqog81ZQLmo9v3Q2ZfRVA.

Join by Phone (Audio Only): (833) 435–1820 USA Toll-Free; Meeting ID: 161 755 3444.

FOR FURTHER INFORMATION CONTACT: Ana Victoria Fortes, Designated Federal Officer, at *afortes@usccr.gov* or (202) 519–2938.

SUPPLEMENTARY INFORMATION: This committee meeting is available to the public through the registration link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Per the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Closed captioning will be available for individuals who are deaf, hard of hearing, or who have certain cognitive or learning impairments. To request additional accommodations, please email Liliana Schiller, Support Services Specialist, at *lschiller@usccr.gov* at least 10 business days prior to the meeting.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Ana Victoria Fortes at *afortes@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meetings will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Minnesota Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at *lschiller@usccr.gov.*

Agenda

I. Welcome & Roll Call
II. Discussion: Review Report
III. Public Comment
IV. Next Steps
V. Adjournment

Dated: February 14, 2024.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2024–03390 Filed 2–16–24; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Minnesota Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: Commission on Civil Rights.

ACTION: Notice of public meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the Minnesota Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a public meeting via Zoom at 2:00 p.m. CT on Friday, May 3, 2024. The purpose of this meeting is to discuss the Committee's report, *Examining Fair Housing and Equal Access to Housing Opportunities in Minnesota.*

DATES: Friday, May 3, 2024, from 2:00 p.m.–3:15 p.m. Central Time.

ADDRESSES: The meeting will be held via Zoom Webinar.

Registration Link (Audio/Visual): https://www.zoomgov.com/webinar/register/WN_8ycsmPrkQ7utLbtDQJYNbw.

Join by Phone (Audio Only): (833) 435–1820 USA Toll-Free; Meeting ID: 160 695 7856.

FOR FURTHER INFORMATION CONTACT: Ana Victoria Fortes, Designated Federal Officer, at *afortes@usccr.gov* or (202) 519–2938.

SUPPLEMENTARY INFORMATION: This committee meeting is available to the public through the registration link above. Any interested member of the

public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Per the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Closed captioning will be available for individuals who are deaf, hard of hearing, or who have certain cognitive or learning impairments. To request additional accommodations, please email Liliana Schiller, Support Services Specialist, at *lschiller@usccr.gov* at least 10 business days prior to the meeting.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Ana Victoria Fortes at *afortes@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meetings will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Minnesota Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at *lschiller@usccr.gov.*

Agenda

I. Welcome & Roll Call

II. Discussion: Review Report

III. Public Comment

IV. Next Steps

V. Adjournment

Dated: February 14, 2024.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2024–03389 Filed 2–16–24; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Minnesota Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: Commission on Civil Rights.

ACTION: Notice of public meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the Minnesota Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a public meeting via Zoom at 2:00 p.m. CT on Friday, May 17, 2024. The purpose of this meeting is to discuss the Committee's report, *Examining Fair Housing and Equal Access to Housing Opportunities in Minnesota.*

DATES: Friday, May 17, 2024, from 2:00 p.m.–3:15 p.m. Central Time.

ADDRESSES: The meeting will be held via Zoom Webinar.

Registration Link (Audio/Visual): https://www.zoomgov.com/webinar/register/WN_roed6ux-SaOROj0bSsR6ZQ.

Join by Phone (Audio Only): (833) 435–1820 USA Toll-Free; Meeting ID: 161 301 0777.

FOR FURTHER INFORMATION CONTACT: Ana Victoria Fortes, Designated Federal Officer, at *afortes@usccr.gov* or (202) 519–2938.

SUPPLEMENTARY INFORMATION: This committee meeting is available to the public through the registration link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Per the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Closed captioning will be available for individuals who are deaf, hard of hearing, or who have certain cognitive or learning impairments. To request additional accommodations, please email Liliana Schiller, Support Services Specialist, at *lschiller@usccr.gov* at least 10 business days prior to the meeting.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Ana Victoria Fortes at *afortes@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meetings will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Minnesota Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at *lschiller@usccr.gov.*

Agenda

I. Welcome & Roll Call
II. Discussion: Review Report
III. Public Comment
IV. Next Steps
V. Adjournment

Dated: February 14, 2024.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2024–03388 Filed 2–16–24; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Guam Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: Commission on Civil Rights.

ACTION: Announcement of public meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the Guam Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a virtual business meeting via Zoom at 9:00 a.m. ChST on Thursday, March 14, 2024 (6:00 p.m. ET on Wednesday, March 13, 2024). The purpose of this meeting is to discuss the Committee's project, *Overrepresentation of FAS Members in the Criminal Justice System on Guam.*

DATES: Thursday, March 14, 2024, from 9:00 a.m.–10:30 a.m. ChST (Wednesday, March 13, 2024, from 6:00 p.m.–7:30 p.m. ET).

ADDRESSES: The meeting will be held via Zoom Webinar.

Registration Link (Audio/Visual): FEFF; *https://www.zoomgov.com/webinar/register/WN_uOEK9LoHTNSDynU8__xiUg.*

Join by Phone (Audio Only): (833) 435–1820 USA Toll Free; Meeting ID: 161 241 6463.

FOR FURTHER INFORMATION CONTACT: Kayla Fajota, DFO, at *kfajota@usccr.gov* or (434) 515–2395.

SUPPLEMENTARY INFORMATION: This committee meeting is available to the public through the registration link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Per the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Closed captioning will be available for individuals who are deaf, hard of hearing, or who have certain cognitive or learning impairments. To request additional accommodations, please email *lschiller@usccr.gov* at least 10 business days prior to the meeting.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to David Mussatt at *dmussatt@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Guam Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at the above phone number.

Agenda

I. Welcome & Roll Call
II. Announcements & Updates
III. Approval of Meeting Minutes
IV. Committee Discussion
V. Next Steps
VI. Public Comment
VII. Adjournment

Dated: February 14, 2024.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2024–03393 Filed 2–16–24; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Minnesota Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: Commission on Civil Rights.

ACTION: Notice of public meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the Minnesota Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a public meeting via Zoom at 1:00 p.m. CT on Tuesday, March 12, 2024. The purpose of this meeting is to discuss the Committee's report, *Examining Fair Housing and Equal Access to Housing Opportunities in Minnesota.*

DATES: Tuesday, March 12, 2024, from 1:00 p.m.–2:15 p.m. Central Time

ADDRESSES: The meeting will be held via Zoom Webinar.

Registration Link (Audio/Visual): https://www.zoomgov.com/webinar/register/WN_zg0_NCi7R4-9xsS2dfL47w.

Join by Phone (Audio Only): (833) 435–1820 USA Toll-Free; Meeting ID: 161 660 8941.

FOR FURTHER INFORMATION CONTACT: Ana Victoria Fortes, Designated Federal Officer, at *afortes@usccr.gov* or (202) 519–2938.

SUPPLEMENTARY INFORMATION: This committee meeting is available to the public through the registration link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Per the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Closed captioning will be available for individuals who are deaf, hard of hearing, or who have certain cognitive or learning impairments. To request additional accommodations, please email Liliana Schiller, Support Services Specialist, at *lschiller@usccr.gov* at least 10 business days prior to the meeting.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Ana Victoria Fortes at *afortes@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meetings will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Minnesota Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at *lschiller@usccr.gov.*

Agenda

I. Welcome & Roll Call
II. Discussion: Review Report
III. Public Comment
IV. Next Steps
V. Adjournment

Dated: February 14, 2024.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2024–03392 Filed 2–16–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–8–2024]

Foreign-Trade Zone (FTZ) 182, Notification of Proposed Production Activity; Valbruna Slater Stainless Inc.; (Metal Ingots); Fort Wayne, Indiana

Valbruna Slater Stainless Inc. submitted a notification of proposed production activity to the FTZ Board (the Board) for its facility in Fort Wayne, Indiana within Subzone 182A. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on February 12, 2024.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status material(s)/

component(s) and specific finished product(s) described in the submitted notification (summarized below) and subsequently authorized by the Board. The benefits that may stem from conducting production activity under FTZ procedures are explained in the background section of the Board's website—accessible via *www.trade.gov/ftz.*

The proposed finished products include stainless steel ingots and nickel ingots (duty rate ranges from duty-free to 3.0%).

The proposed foreign-status materials and components include stainless steel ingots and nickel ingots (duty rate ranges from duty-free to 3.0%). The request indicates that certain materials/components are subject to duties under section 232 of the Trade Expansion Act of 1962 (section 232) or section 301 of the Trade Act of 1974 (section 301), depending on the country of origin. The applicable section 232 and section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is April 1, 2024.

A copy of the notification will be available for public inspection in the ''Online FTZ Information System'' section of the Board's website.

For further information, contact Juanita Chen at *juanita.chen@trade.gov.*

Dated: February 13, 2024.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2024–03377 Filed 2–16–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–983, C–570–984]

Drawn Stainless Steel Sinks From the People's Republic of China: Continuation of Antidumping and Countervailing Duty Orders

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

SUMMARY: As a result of the determinations by the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC) that revocation of the antidumping duty (AD) and countervailing duty (CVD) orders on drawn stainless steel sinks from the People's Republic of China (China) would likely lead to the continuation or recurrence of dumping and countervailable subsidies, and material injury to an industry in the United States, Commerce is publishing a notice of continuation of these AD and CVD orders.

DATES: Applicable February 7, 2024.

FOR FURTHER INFORMATION CONTACT: Sean Grossnickle, 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) 482–3818.

SUPPLEMENTARY INFORMATION:

Background

On April 11, 2013, Commerce published in the **Federal Register** the AD and CVD orders on drawn stainless steel sinks from China.[1] On July 23, 2023, the ITC instituted,[2] and Commerce initiated,[3] the second sunset reviews of the *Orders,* pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). As a result of its reviews, Commerce determined that revocation of the *Orders* would likely lead to the continuation or recurrence of dumping and countervailable subsidies, and, therefore, notified the ITC of the magnitude of the margins of dumping and subsidy rates likely to prevail should the *Orders* be revoked.[4]

On February 7, 2024, the ITC published its determination, pursuant to sections 751(c) and 752(a) of the Act, that revocation of the *Orders* would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[5]

Scope of the Orders

The merchandise covered by the *Orders* includes drawn stainless steel sinks with single or multiple drawn bowls, with or without drain boards, whether finished or unfinished, regardless of type of finish, gauge, or grade of stainless steel. Mounting clips, fasteners, seals, and sound-deadening pads are also covered by the scope of these *Orders* if they are included within the sales price of the drawn stainless steel sinks.[6] For purposes of this scope definition, the term ''drawn'' refers to a manufacturing process using metal forming technology to produce a smooth basin with seamless, smooth, and rounded corners. Drawn stainless steel sinks are available in various shapes and configurations and may be described in a number of ways including flush mount, top mount, or undermount (to indicate the attachment relative to the countertop). Stainless steel sinks with multiple drawn bowls that are joined through a welding operation to form one unit are covered by the scope of the *Orders.* Drawn stainless steel sinks are covered by the scope of the *Orders* whether or not they are sold in conjunction with non-subject accessories such as faucets (whether attached or unattached), strainers, strainer sets, rinsing baskets, bottom grids, or other accessories.

Excluded from the scope of the *Orders* are stainless steel sinks with fabricated bowls. Fabricated bowls do not have seamless corners, but rather are made by notching and bending the stainless steel, and then welding and finishing the vertical corners to form the bowls. Stainless steel sinks with fabricated bowls may sometimes be referred to as ''zero radius'' or ''near zero radius'' sinks. The products covered by these *Orders* are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under statistical reporting number 7324.10.0000 and 7324.10.0010. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the *Orders* is dispositive.[7]

Continuation of the Orders

As a result of the determinations by Commerce and the ITC that revocation of the *Orders* would likely lead to continuation or recurrence of dumping and countervailable subsidies, and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, Commerce hereby orders the continuation of the *Orders.*

[1] *See Drawn Stainless Steel Sinks from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order,* 78 FR 21592 (April 11, 2013); *see also Drawn Stainless Steel Sinks from the People's Republic of China: Countervailing Duty Order,* 78 FR 21596 (April 11, 2013) (*Orders*).

[2] *See Drawn Stainless Steel Sinks from China; Institution of Five-Year Reviews,* 88 FR 42745 (July 3, 2023).

[3] See *Initiation of Five-Year (Sunset) Reviews,* 88 FR 42688 (July 3, 2023).

[4] *See Drawn Stainless Steel Sinks from the People's Republic of China: Final Results of the Expedited Second Sunset Review of the Antidumping Duty Orders,* 88 FR 74976 (November 1, 2023), and accompanying Issues and Decision Memorandum (IDM); *see also Drawn Stainless Steel Sinks From the People's Republic of China: Final Results of the Expedited Second Sunset Review of the Countervailing Duty Order,* 88 FR 72428 (October 20, 2023), and accompanying IDM.

[5] *See Drawn Stainless Steel Sinks from China,* 89 FR 8440 (February 7, 2024) (*ITC Final Determination*).

[6] Mounting clips, fasteners, seals, and sound-deadening pads are not covered by the scope of this order if they are not included within the sales price of the drawn stainless steel sinks, regardless of whether they are shipped with or entered.

[7] *See Orders.*

U.S. Customs and Border Protection will continue to collect AD and CVD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of the *Orders* will be February 7, 2024.[8] Pursuant to section 751(c)(2) of the Act and 19 CFR 351.218(c)(2), Commerce intends to initiate the next five-year reviews of the *Orders* not later than 30 days prior to fifth anniversary of the date of the last determination by the ITC.

Administrative Protective Order (APO)

This notice also serves as a final reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

These five-year (sunset) reviews and this notice are in accordance with sections 751(c) and 751(d)(2) of the Act, and published in accordance with section 777(i) of the Act and 19 CFR 351.218(f)(4).

Dated: February 13, 2024.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2024–03376 Filed 2–16–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–872]

Finished Carbon Steel Flanges From India: Final Results of Countervailing Duty Administrative Review; 2021

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that Norma (India) Ltd. (Norma) and R.N. Gupta & Co. Ltd. (RNG) received countervailable subsidies during the period of review (POR), January 1, 2021, through December 31, 2021.

DATES: Applicable February 20, 2024.

FOR FURTHER INFORMATION CONTACT: Preston N. Cox or Scarlet K. Jaldin, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5041 or (202) 482–4275, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 17, 2023, Commerce published the *Preliminary Results* of this administrative review in the **Federal Register** and invited interested parties to comment.[1] In September 2023, Commerce conducted verification of the information reported in the questionnaire responses of Norma (India) Limited (Norma) and R.N. Gupta & Co. Ltd. (RNG).[2] On November 6, 2023, we received a timely filed case brief from the Government of India (GOI).[3] On November 15, 2023, Commerce extended the deadline for issuing these final results to February 1, 2023.[4] On January 23, 2024, we further extended the deadline for these final results to February 13, 2024.[5] For a complete description of the events that occurred since the publication of the *Preliminary Results, see* the Issues and Decision Memorandum.[6]

Scope of the Order

The merchandise covered by the *Order* is finished carbon steel flanges. For a complete description of the scope of the *Order, see* the Issues and Decision Memorandum.[7]

Analysis of Comments Received

All issues raised by the GOI in its case brief are addressed in the Issues and Decision Memorandum. A list of topics discussed in the Issues and Decision Memorandum is provided in Appendix I. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Changes Since the Preliminary Results

Based on our analysis of comments from interested parties and the information on the record, there have been no changes made from the *Preliminary Results.* For a full discussion of the issues, *see* the Issues and Decision Memorandum.

Methodology

Commerce conducted this administrative review in accordance with section 751(a)(l)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found to be countervailable, we find that there is a subsidy, *i.e.,* a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.[8] For a full description of the methodology underlying our conclusions, including our reliance on adverse facts available pursuant to sections 776(a) and (b) of the Act, *see* the Issues and Decision Memorandum.

Companies Not Selected for Individual Examination

We made no changes to the methodology used in the *Preliminary Results* [9] for determining a rate for companies not selected for individual examination. Therefore, we have made no changes to the subsidy rate calculated for companies not selected for individual examination. The companies for which a review was requested and that were not selected as mandatory respondents or found to be cross-owned with a mandatory respondent are listed in Appendix II.

[1] *See Finished Carbon Steel Flanges from India: Preliminary Results of Countervailing Duty Administrative Review; 2021,* 88 FR 56000 (August 17, 2023) (*Preliminary Results*), and accompanying Preliminary Decision Memo (PDM).

[2] *See* Memorandum, ''Report on Verification of Norma (India) Limited, USK Exports Private Limited, Uma Shanker Khandelwal & Co., and Bansidhar Chiranjilal,'' dated October 25, 2023; *see also* Memorandum, ''Report on Verification of R.N. Gupta & Co., Ltd.,'' dated October 25, 2023.

[3] *See* GOI's Letter, ''Case Brief on behalf,'' dated November 6, 2023.

[4] *See* Memorandum, ''Extension of Deadline for Final Results of Countervailing Duty Administrative Review; 2021,'' dated November 15, 2023.

[5] *See* Memorandum, ''Extension of Deadline for Final Results of Countervailing Duty Administrative Review; 2021,'' dated January 23, 2024.

[6] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Countervailing Duty Administrative Review of Finished Carbon Steel Flanges from India; 2021,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[7] *Id.* at 2–3.

[8] *See ITC Final Determination.*

[8] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; *see also* section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[9] *See Preliminary Results* PDM at 25–26.

Final Results of Administrative Review

As a result of this review, we determine that the following net countervailable subsidy rates exist for the period January 1, 2021, through December 31, 2021:

Producer/exporter	Subsidy rate (percent *ad valorem*)
Norma (India) Ltd.[10]	2.98
R.N. Gupta & Co. Ltd	3.20
Non-Selected Companies Under Review[11]	3.09

Disclosure

Normally, Commerce discloses its calculations and analysis performed in connection with the final results to interested parties within five days of its public announcement, or if there is no public announcement, within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b). However, because we have made no changes to the calculations used in reaching the *Preliminary Results,* the countervailable subsidy rates are unchanged from the rates assigned in the *Preliminary Results,* and there are no calculations to disclose.

Cash Deposit Requirements

Pursuant to section 751(a)(1) of the Act, Commerce intends to instruct U.S. Customs and Border Protection (CBP) to collect cash deposits of estimated countervailing duties in the amounts shown for each company listed above on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results of this administrative review. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the all-others rate or the most recent company-specific rate applicable to the company or the non-selected companies rate, as appropriate. These cash deposit instructions, effective upon the publication of these final results, shall remain in effect until further notice.

Assessment Requirements

In accordance with section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(2), Commerce has determined, and CBP shall assess, countervailing duties on all appropriate entries covered by this review for the above-listed companies at the applicable *ad valorem* assessment rates. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after 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).

Administrative Protection Order (APO)

This notice also serves as a final reminder to parties subject to an 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 the return or destruction of APO materials or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

These final results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 351.221(b)(5).

Dated: February 13, 2024.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, Performing the Non-exclusive Functions and Duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I—List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Non-Selected Companies Under Review
V. Subsidies Valuation Information
VI. Use of Facts Otherwise Available and Application of Adverse Inferences
VII. Analysis of Programs
VIII. Discussion of the Issues
Comment 1: Whether the Duty Drawback Program Is Countervailable
Comment 2: Whether the Export Promotion of Capital Goods Scheme Is Countervailable
Comment 3: Whether the Interest Equalization Scheme Is Countervailable
Comment 4: Whether Commerce Correctly Found the Merchandise Export From India Scheme and the Status Holder Incentive Scheme To Be Countervailable
Comment 5: Whether Commerce Correctly Analyzed the Electricity Duty Exemption Under the State Government of Uttar Pradesh Investment Promotion Scheme/ Infrastructure and Industrial Investment Policy (SGUP–EDE) Scheme
IX. Recommendation

Appendix II—Companies Not Selected for Individual Examination

1. Adinath International
2. Allena Group
3. Alloyed Steel
4. Balkrishna Steel Forge Pvt. Ltd.
5. Bebitz Flanges Works Private Limited
6. C.D. Industries
7. Cetus Engineering Private Limited
8. CHW Forge
9. CHW Forge Pvt. Ltd.
10. Citizen Metal Depot
11. Corum Flange
12. DN Forge Industries
13. Echjay Forgings Limited
14. Falcon Valves and Flanges Private Limited
15. Heubach International
16. Hindon Forge Pvt. Ltd.
17. Jai Auto Pvt. Ltd.
18. Kinnari Steel Corporation
19. M F Rings and Bearing Races Ltd.
20. Mascot Metal Manufacturers
21. Munish Forge Private Limited
22. OM Exports
23. Punjab Steel Works (PSW)
24. R.D. Forge
25. Raaj Sagar Steel
26. Ravi Ratan Metal Industries
27. Rolex Fittings India Pvt. Ltd.
28. Rollwell Forge Engineering Components and Flanges
29. Rollwell Forge Pvt. Ltd.
30. SHM (ShinHeung Machinery)
31. Siddhagiri Metal & Tubes
32. Sizer India
33. Steel Shape India
34. Sudhir Forgings Pvt. Ltd.
35. Tirupati Forge
36. Umashanker Khandelwal Forging Limited

[FR Doc. 2024–03402 Filed 2–16–24; 8:45 am]

BILLING CODE 3510–DS–P

[10] As discussed in the *Preliminary Results* PDM, Commerce has found the following companies to be cross-owned with Norma (India) Ltd.: USK Export Private Limited; Uma Shanker Khandelwal and Co.; and Bansidhar Chiranjilal. This rate applies to all cross-owned companies.

[11] *See* Appendix II for a list of companies not selected for individual examination.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID–0648–XD729]

Draft Overview of the National Aquaculture Development Plan and Draft Strategic Plan for Aquaculture Economic Development

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

ACTION: Notice of availability; request for comments.

SUMMARY: On behalf of the National Science and Technology Council (NSTC)'s Subcommittee on Aquaculture (SCA), NMFS announces the availability of the draft Overview of the *National Aquaculture Development Plan* (NADP) and draft *Strategic Plan for Aquaculture*

Economic Development (Economic Development Plan) for public comment.

DATES: Comments on this notice must be received by April 5, 2024 to be assured of consideration.

ADDRESSES: You may download the draft Overview of the NADP and the draft Economic Development Plan at *https://www.ars.usda.gov/sca/.*

Submitting Comments: Interested persons may submit comments by any of the following methods:

- *Electronic Submissions:* Submit electronic public comments to *AquacultureEcoDev@usda.gov.*

Mail: Gabriela McMurtry, Attn: Aquaculture Economic Development Plan Comments, Office of Policy, F/AQ, 1315 East-West Highway, 14th Floor, Silver Spring, MD 20910. Comments sent by any other method, to any other address or individual, or received after the end of the comment person, may not be considered by the SCA. All comments received are a part of the public record and will generally be made available for public viewing upon request. Please note that personal identifying information (*e.g.,* name, address, etc.), confidential business information, or other sensitive information submitted by the sender can be publicly accessible.

FOR FURTHER INFORMATION CONTACT: Deputy Director, Office of Aquaculture, NOAA Fisheries—David O'Brien, *david.obrien@noaa.gov,* (301) 427–8337. Research Agricultural Economist, USDA, Economic Research Service—Christopher G. Davis, *christopher.davis2@usda.gov,* (225) 253–4580. Fishery Policy Analyst, Office of Policy, NOAA Fisheries—Gabriela McMurtry, *gabriela.mcmurtry@noaa.gov,* (204) 293–0570.

SUPPLEMENTARY INFORMATION: The U.S. national policy on aquaculture states that Congress declares that aquaculture has the potential for reducing the U.S. trade deficit in fisheries products, for augmenting existing commercial and recreational fisheries, and for producing other renewable resources, thereby assisting the United States in meeting its future food needs and contributing to the solution of the world resource problems. It is, therefore, in the national interest, and it is the national policy, to encourage the development of aquaculture in the United States. (National Aquaculture Act of 1980, (Pub. L. 96–362, 94 Stat. 1198, 16 U.S.C. 2801, *et seq.*)

The SCA, previously known as the Interagency Working Group on Aquaculture and the Joint Subcommittee on Aquaculture, is a statutory subcommittee that operates under the Committee on Environment of the NSTC under the Office of Science and Technology Policy in the Executive Office of the President. It is co-chaired by the Department of Agriculture, Department of Commerce, Department of the Interior, and the White House Office of Science and Technology Policy. Members include the Department of Agriculture, Department of Commerce, Army Corps of Engineers, Department of the Interior, Food and Drug Administration, Department of State, Environmental Protection Agency, and the Office of Management and Budget. The SCA serves as the Federal interagency coordinating group to increase the overall effectiveness and productivity of Federal aquaculture research, regulation, technology transfer, and assistance programs. This interagency coordinating group has been functioning since before the National Aquaculture Act was signed into law in 1980.

Originally published in 1983, NADP encouraged domestic aquaculture development. While the National Aquaculture Act called for periodic updating, a comprehensive update to the 1983 NADP has not yet been completed. Nearly four decades have passed since the NADP, and the original NADP does not capture the progress the Federal Government and the U.S. aquaculture community have made to adopt and promote sustainable aquaculture growth and uses nor guidance for next steps for the Federal Government in that evolution.

During the past several years, the SCA has invited public input and then published strategic plans covering scientific and technological advances and outlining efficiencies for the Federal regulatory framework for aquaculture in the United States. Using the same process of public engagement, the Economic Development Task Force of the SCA prepared the draft Economic Development Plan using input from industry and other stakeholders and in collaboration with relevant experts from numerous Federal agencies.

The draft Economic Development Plan outlines actions that Federal agencies can take within their existing statutory authorities and budgetary resources to support a robust, resilient, globally competitive, and environmentally sustainable domestic aquaculture sector. The Economic Development Plan is intended to support both the viability and expansion of existing operations and to encourage new entrants, addressing needs across the seafood supply chain and diverse production systems. The proposed actions serve as points of intersection between climate-smart food production, private-public partnerships, blue economy, community resilience and health, workforce development, working waterfronts, urban and rural development, and seafood supply chains (both farmed and wild-caught). The Economic Development Plan complements two other finalized thematic strategic plans—the *Strategic Plan to Enhance Regulatory Efficiency in Aquaculture* and the *National Strategic Plan for Aquaculture Research.*

The Overview to the NADP serves as introduction and provides policy context to the three thematic strategic plans. Once finalized, together these four documents will comprise an updated NADP that provides a holistic framework describing how federal agencies are advancing the contributions of aquaculture to support public health and nutrition, resilient communities, a strong economy, and a healthy planet.

These draft plans are being issued under the following authorities: National Aquaculture Act of 1980 (Pub. L. 96–362, 94 Stat. 1198, 16 U.S.C. 2801, *et seq.*) and the National Aquaculture Improvement Act of 1985 (Pub. L. 99–198, 99 Stat. 1641).

Next Steps

The public is encouraged to review and comment on the draft Economic Development Plan and the draft Overview to the NADP. After the public comment period ends, the SCA will consider and address the comments received before publishing the final work plan.

Dated: February 13, 2024.

David O'Brien,

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

[FR Doc. 2024–03345 Filed 2–16–24; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 11:30 a.m. EST, Wednesday, February 28, 2024.

PLACE: CFTC headquarters office, Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Matters relating to the selection of a candidate to serve as the Inspector General of the Commission. In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date,

and/or place of the meeting will be posted on the Commission's website at *https://www.cftc.gov/.*

CONTACT PERSON FOR MORE INFORMATION: Christopher Kirkpatrick, 202–418–5964.

Authority: 5 U.S.C. 552b.

Dated: February 15, 2024.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2024–03503 Filed 2–15–24; 4:15 pm]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Appointment of Members to the Board of Directors of the Army West Point Athletic Association

AGENCY: Department of the Army, DOD.

ACTION: Notice of intent to make appointments to the Board of Directors for the Army West Point Athletic Association (AWPAA).

SUMMARY: The Department of the Army is publishing this notice to announce the DoD General Counsel has concurred with the Secretary of the Army's intent to appoint the Deputy Chief of Staff, G–1, U.S. Army; the Commandant of Cadets, U.S. Military Academy; and, the Dean of the Academic Board, U.S. Military Academy, for service on the Board of Directors for the AWPAA.

FOR FURTHER INFORMATION CONTACT: John S. Frost, Senior Counsel—Legislation in writing at the Office of the Staff Judge Advocate, ATTN: John S. Frost, 646 Swift Road, West Point, NY 10996; by email at *john.frost@westpoint.edu;* or by telephone at 845–938–3205.

SUPPLEMENTARY INFORMATION: Under 10 U.S.C. 1033 and the Joint Ethics Regulation, Department of Defense Directive (DoDD) 5500.07–R, paragraph 3–202, the Secretary of the Army may authorize personnel to participate in the management of a Non-Federal Entity (NFE) with the concurrence of the DOD General Counsel.

The Army West Point Athletic Association (AWPAA) is the 503(c)(3) corporation organized under the provisions of title 10, United States Code, section 7462, to execute the U.S. Military Academy's intercollegiate athletics mission. The AWPAA is governed by a Board of Directors (BOD), which is responsible for the day-to-day operations of the AWPAA as well as the general corporate responsibilities of the organization. Of the minimum of seven BOD positions made available under its by laws, three are reserved for members of the Armed Forces. The purpose of Armed Forces membership on the AWPAA BOD is to provide oversight, advice and coordination with AWPAA. Their activities will not extend to the day-to-day operations of the AWPAA. The DoD General Counsel has designated the AWPAA as an entity for which DOD personnel may participate in management activities.

James W. Satterwhite, Jr.,

Army Federal Register Liaison Officer.

[FR Doc. 2024–03347 Filed 2–16–24; 8:45 am]

BILLING CODE 3711–02–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Business Board; Notice of Federal Advisory Committee Meeting

AGENCY: Office of the Deputy Secretary of Defense, Department of Defense (DoD).

ACTION: Notice of Federal advisory committee meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense Business Board (''the Board'') will take place.

DATES: Open to the public Thursday, February 29 from 3:00 p.m. to 4:35 p.m. Eastern time.

ADDRESSES: The meeting will be conducted virtually by Zoom. To participate in the meeting, see the Meeting Accessibility section for instructions.

FOR FURTHER INFORMATION CONTACT: Ms. Cara Allison Marshall, Designated Federal Officer (DFO) of the Board in writing at Defense Business Board, 1155 Defense Pentagon, Room 5B1088A, Washington, DC 20301–1155; or by email at *cara.l.allisonmarshall.civ@mail.mil;* or by phone at 703–614–1834.

SUPPLEMENTARY INFORMATION: Due to circumstances beyond the control of the Department of Defense and Designated Federal Officer, the Defense Business Board was unable to provide public notification required by 41 CFR 102–3.150(a) concerning its February 29, 2024 meeting. Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

This meeting is being held under the provisions of chapter 10 of title 5, United States Code (U.S.C.) (commonly known as the ''Federal Advisory Committee Act'' or ''FACA''), 5 U.S.C. 552b (commonly known as the ''Government in the Sunshine Act''), and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: The mission of the Board is to examine and advise the Secretary of Defense on overall DoD management and governance. The Board provides independent, strategic-level, private sector and academic advice and counsel on enterprise-wide business management approaches and best practices for business operations and achieving National Defense goals.

Agenda: The Board meeting will begin February 29 at 3:00 p.m. with opening remarks by the Board DFO, Ms. Cara Allison Marshall, followed with a welcome by the Board Chair. The Board will receive a presentation on the study, *Creating a Digital Ecosystem* from Mr. Stan Soloway, Chair, Business Transformation Advisory Subcommittee. During this session, the Subcommittee will brief the Board on the findings, observations, and recommendations it compiled as part of a recent study on ways to leverage digital ecosystems to harness the power of data to aid decision-making and risk analysis through simulation and advanced computing. The DFO will then adjourn the open session. The latest version of the agenda will be available on the Board's website at: *https://dbb.dod.afpims.mil/Meetings/Meeting-February-2024/.*

Meeting Accessibility: Pursuant to 5 U.S.C. 1009(d) and 41 CFR 102–3.155, the meeting on February 29 from 3:00 p.m. to 4:30 p.m. is open to the public virtually. Persons desiring to attend the public sessions are required to register. To attend the public sessions, submit your name, affiliation/organization, telephone number, and email contact information to the Board at *osd.pentagon.odam.mbx.defense-business-board@mail.mil.* Requests to attend the public sessions must be received no later than 4:00 p.m. on Monday, February 26, 2024. Upon receipt of this information, the Board will provide further instructions for virtually attending the meeting.

Written Comments and Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and 5 U.S.C. 1009(a)(3) of the FACA, the public or interested organizations may submit written comments or statements to the Board in response to the stated agenda of the meeting or regarding the Board's mission in general. Written comments or statements should be submitted to Ms. Cara Allison Marshall, the DFO, via electronic mail (the preferred mode of submission) at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Each page of the comment or statement must include the author's

name, title or affiliation, address, and daytime phone number. The DFO must receive written comments or statements submitted in response to the agenda set forth in this notice by Monday, February 26, 2024, to be considered by the Board. The DFO will review all timely submitted written comments or statements with the Board Chair and ensure the comments are provided to all members of the Board before the meeting. Written comments or statements received after this date may not be provided to the Board until its next scheduled meeting. Please note that all submitted comments and statements will be treated as public documents and will be made available for public inspection, including, but not limited to, being posted on the Board's website.

Dated: February 13, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–03365 Filed 2–16–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Business Board; Notice of Federal Advisory Committee Meeting; Amendment

AGENCY: Office of the Deputy Secretary of Defense, Department of Defense (DoD).

ACTION: Notice of Federal advisory committee meeting; amendment.

SUMMARY: On Friday, January 19, 2024, the DoD published a notice announcing a partially closed meeting of the Defense Business Board (DBB) on February 6 and 7, 2024. Subsequent to publication of the notice, DoD is making changes to the meeting agenda. The amended meeting agenda is included in this notice.

DATES: Closed to the public February 6 from 10:15 a.m. to 7:05 p.m. and on February 7 from 9:20 a.m. to 10:20 a.m. Open virtually to the public February 6 from 9 a.m. to 10:15 a.m. and February 7 from 10:20 a.m. to 11:35 a.m. All eastern standard time.

ADDRESSES: The open and closed portions of the meeting will be in Room M2 of the Pentagon Library Conference Center and 4D880 in the Pentagon, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Cara Allison Marshall, Designated Federal Officer (DFO) of the Board in writing at Defense Business Board, 1155 Defense Pentagon, Room 5B1088A, Washington, DC 20301–1155; or by email at *cara.l.allisonmarshall.civ@mail.mil;* or by phone at 703–614–1834.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of chapter 10 of title 5, United States Code (U.S.C.) (commonly known as the ''Federal Advisory Committee Act'' or ''FACA''), 5 U.S.C. 552b (commonly known as the ''Government in the Sunshine Act''), and 41 CFR 102–3.140 and 102–3.150.

Due to circumstances beyond the control of the Department of Defense and Designated Federal Officer, the Defense Business Board was unable to provide public notification required by 41 CFR 102–3.150(a) concerning its amended February 6–7, 2024 meeting notice. Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

Purpose of the Meeting: The mission of the Board is to examine and advise the Secretary of Defense on overall DoD management and governance. The Board provides independent, strategic-level, private sector and academic advice and counsel on enterprise-wide business management approaches and best practices for business operations and achieving National Defense goals.

Agenda: The Board will begin in open session on February 6 from 9 a.m. to 10:15 a.m. The DFO will begin the open session followed by a welcome by Board Chair, Hon. Deborah James. The Board will receive a discussion on the Role of Private Industry and Business in the National Defense Industrial Strategy (NDIS) from Hon. Radha Iyengar Plumb, Deputy Under Secretary of Defense for Acquisition and Sustainment. The NDIS provides the strategic vision to coordinate actions and emphasizes four long-term strategic priorities: building resilient supply chains, securing workforce readiness, enabling flexible acquisition, and promoting economic deterrence. The discussion will focus on how business leaders can best support the NDIS and ways to overcome the obstacles to implementation. The DFO will adjourn the open session. The Board will reconvene in closed session on February 6 from 10:15 a.m. to 7:05 p.m. The DFO will begin the closed session. The Board will receive a classified discussion on the DoD Audit and Incremental Progress from Hon. Michael McCord, Under Secretary of Defense (Comptroller)/Chief Financial Officer. This session will include an overview of the latest DoD Audit, progress to date, and the path forward. Discussion will include current obstacles and historic challenges to obtaining a clean audit. After a lunch break, the Board will receive a classified discussion on the State of the Workforce—Recruiting, Training, Retention, Obstacles, and Solutions from Chief Master Sergeant of the Air Force JoAnne Bass. The conversation is expected to delve into the multifaceted aspects of managing a contemporary workforce, addressing challenges in recruiting talent in the current environment, implementing effective training programs, and devising retention strategies. Discussion will focus on identifying obstacles such as changing workforce expectations, skill gaps to address future needs per the National Security Strategy (NSS); and exploring innovative solutions to foster a resilient and high-performing workforce. Following a short break, the Board will receive a classified discussion on DoD Industry Partnerships from Mr. Jedidiah P. Royal, Principal Deputy Assistant Secretary of Defense for Indo-Pacific Security Affairs, Office of the Under Secretary of Defense for Policy. Mr. Royal will discuss his work with allies and partners in the Indo-Pacific region to obtain key capabilities for a future warfighter. Following, the Board will receive a classified discussion on Current Operations, Crisis Action Planning, and Adaptive Decision Making in Dynamic Environments from LTG Douglas A. Sims II, U.S. Army, Director for Operations, Joint Staff. This forum will explore the intersection of military operations and corporate crisis management, highlighting the parallels between the principles of current operations, crisis action planning, and adaptive decision-making in both contexts. Through this exploration, participants can gain valuable insights into proactive crisis management, strategic preparedness for ''black swan'' events, and the cultivation of an agile organizational culture that is capable of navigating complex and rapidly changing landscapes. The Board will transition to the Air Force Mess for their final closed session on February 6. The Board Chair, Hon Deborah James will provide remarks, followed by remarks from the Deputy Secretary, Hon. Kathleen Hicks. Next, the Board will hear a classified update from the Defense Advanced Research Projects Agency (DARPA) Director, Dr. Stefanie Tompkins. This discussion focuses on significant updates from DARPA in support of the NSS, how they have a different remit from the DoD, and what best business practices could be

imported to the rest of the DoD. The DFO will adjourn the closed session. The Board will begin in closed session on February 7 from 9:20 a.m. to 10:20 a.m. in Room M2 of the Pentagon Library Conference Center. The DFO will begin the closed session followed by a welcome by Board Chair. The Board will receive a classified discussion on the ''Replicator'' Initiative from Hon. Kathleen Hicks, Deputy Secretary of Defense; Ms. Aditi Kumar, Deputy Director for Strategy, Policy, and National Security Partnerships at Defense Innovation Unit; and Ms. Joy Shanaberger, Senior Advisor to the Deputy Secretary of Defense. This discussion focuses on DoD's initiative on meeting critical warfighter needs at speed and scale. The DFO will adjourn the closed session. The Board will reconvene in open session February 7 from 10:20 a.m. to 11:35 a.m. The DFO will begin the public session followed by a discussion on Supply Chain Risk Management from Brigadier General Stephanie Howard, U.S. Army Reserve, Executive Director for Operational Contract Support, Office of the Under Secretary of Defense for Acquisition and Sustainment. This segment will focus on supply chain risk management in the context of strategic competition, including how DoD can access and share information while protecting intellectual property. The discussion will focus on the experience of business leaders in managing similar challenges within large companies, and best practices for evaluating risks. The DFO will then adjourn the open session. The latest version of the agenda will be available on the DBBs website at: *https://dbb.dod.afpims.mil/Meetings/Meeting-February-2024/.*

Meeting Accessibility: In accordance with 5 U.S.C. 1009(d) and 41 CFR 102–3.155, it is hereby determined that the February 6–7 meeting of the Board will include classified information and other matters covered by 5 U.S.C. 552b(c)(1) and that, accordingly, portions of the meeting will be closed to the public. This determination is based on the consideration that it is expected that discussions throughout the closed portions will involve classified matters of national security. Such classified material is so intertwined with the unclassified material that it cannot reasonably be segregated into separate discussions without defeating the effectiveness and meaning of these portions of the meeting. To permit these portions of the meeting to be open to the public would preclude discussion of such matters and would greatly diminish the ultimate utility of the Board's findings and recommendations to the Secretary of Defense and the Deputy Secretary of Defense. Pursuant to 5 U.S.C. 1009(a)(1) and 41 CFR 102–3.140, the portion of the meeting on February 7 from 9 a.m. to 11:40 a.m. is open to the public virtually. Persons desiring to attend the public sessions are required to register. To attend the public sessions, submit your name, affiliation/organization, telephone number, and email contact information to the Board at *osd.pentagon.odam.mbx.defense-business-board@mail.mil.* Requests to attend the public sessions must be received no later than 12 p.m. on Monday, February 5, 2024. Upon receipt of this information, the Board will provide further instructions for virtually attending the meeting.

Written Comments and Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and 5 U.S.C. 1009(a)(3) of the FACA, the public or interested organizations may submit written comments or statements to the Board in response to the stated agenda of the meeting or regarding the Board's mission in general. Written comments or statements should be submitted to Ms. Cara Allison Marshall, the DFO, via electronic mail (the preferred mode of submission) at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Each page of the comment or statement must include the author's name, title or affiliation, address, and daytime phone number. The DFO must receive written comments or statements submitted in response to the agenda set forth in this notice by 12 p.m. on Monday, February 5, 2024, to be considered by the Board. The DFO will review all timely submitted written comments or statements with the Board Chair and ensure the comments are provided to all members of the Board before the meeting. Written comments or statements received after this date may not be provided to the Board until its next scheduled meeting. Please note that all submitted comments and statements will be treated as public documents and will be made available for public inspection, including, but not limited to, being posted on the Board's website.

Dated: February 9, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–03356 Filed 2–16–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0210]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Foreign Institution Reporting Requirements Under the CARES Act

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a new information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before March 21, 2024.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, (202) 377–4018.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Foreign Institution Reporting Requirements under the CARES Act.

OMB Control Number: 1845–NEW.

Type of Review: New ICR.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 104.

Total Estimated Number of Annual Burden Hours: 52.

Abstract: The Department of Education (the Department) is requesting a new information collection, 1845–NEW, Foreign Institution Reporting Requirements under the CARES Act, be made available for full clearance with public comment. Section 3510(a) of the CARES Act, Public Law 116–136 (March 27, 2020), authorized the Secretary of Education (Secretary) to permit a foreign institution, in the case of a public health emergency, major disaster or emergency, or national emergency declared by the applicable government authorities in the country in which the foreign institution is located, to provide any part of an otherwise eligible program to be offered via distance education for the duration of such emergency or disaster and the following payment period for purposes of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 *et seq.*). Additionally, under section 3510(d) of the CARES Act, the Secretary may allow a foreign institution to enter into a written arrangement with an institution of higher education located in the United States that participates in the Federal Direct Loan Program under part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a *et seq.*) for the purpose of allowing a student of the foreign institution who is a borrower of a loan made under such part to take courses from the institution of higher education located in the United States. The CARES Act requires foreign institutions that use either type of authority described above to report such use to the Secretary. Institutions are required to report use of either distance education or written arrangements to the Department no later than 30 days after it begins offering coursework online to Direct Loan recipients. The Department must also collect specific information from a school that requests a waiver in order to determine if the school is eligible to receive the waiver. On May 12, 2020, Federal Student Aid, an Office of the Department, notified foreign institutions of the new authority and requested that any foreign institution who wished to utilize this new authority to respond with information specified in the email. This information collection was discontinued following the discontinuation of the national COVID–19 emergency status. However, due to other global situations we are now requesting a new collection to allow for the on-going use of the CARES Act waiver.

Dated: February 13, 2024.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2024–03341 Filed 2–16–24; 8:45 am]

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DEPARTMENT OF ENERGY

National Nuclear Security Administration

Record of Decision for the Final Site-Wide Environmental Impact Statement for Continued Operation of the Lawrence Livermore National Laboratory

AGENCY: National Nuclear Security Administration, Department of Energy.

ACTION: Record of decision.

SUMMARY: The National Nuclear Security Administration (NNSA), a semi-autonomous agency within the U.S. Department of Energy (DOE), is issuing this Record of Decision (ROD) for the Final Site-Wide Environmental Impact Statement (SWEIS) for Continued Operation of the Lawrence Livermore National Laboratory (LLNL) in California (Final LLNL SWEIS) (DOE/EIS–0547). NNSA prepared the Final LLNL SWEIS to analyze the potential environmental impacts associated with reasonable alternatives for continuing LLNL operations and foreseeable new and/or modified operations and facilities for approximately the next 15 years. The SWEIS analyzes two alternatives: No-Action Alternative and Proposed Action. In this ROD, NNSA announces its decision to implement the Proposed Action.

FOR FURTHER INFORMATION CONTACT: For further information on this ROD or the LLNL SWEIS, contact: Thomas Grim, National Environmental Policy Act (NEPA) Document Manager, National Nuclear Security Administration, Livermore Field Office, P.O. Box 808, Livermore, CA 94551; via email *at LLNLSWEIS@nnsa.doe.gov,* or by phone at (833)778–0508. This ROD, the LLNL SWEIS, and related NEPA documents are available at *www.energy.gov/nnsa/nnsa-nepa-reading-room.*

SUPPLEMENTARY INFORMATION:

Background

The NNSA is responsible for meeting the national security requirements established by the President and Congress to maintain and enhance the safety, reliability, and performance of the U.S. nuclear weapons stockpile. The continued operation of LLNL is critical to NNSA's Stockpile Stewardship and Management Program, to prevent the spread and use of nuclear weapons worldwide, and to many other areas that may impact national security and global stability (50 U.S.C. 2521).

LLNL is a federally funded research and development center that conducts research for the U.S. Government in accordance with 48 CFR 35.017. LLNL has been in existence since 1952, employs approximately 8,000 people (employees and contractors), and has a current annual budget of approximately $3 billion.

LLNL consists of two federally owned sites: an 821-acre site in Livermore, California (Livermore Site), and a 7,000-acre experimental test site (Site 300) southeast of the Livermore Site between Livermore and Tracy, California. Most LLNL operations are located at the Livermore Site, which is situated about 50 miles east of San Francisco in southeastern Alameda County. Site 300 is primarily a test site for high explosives and non-nuclear weapons components; it is located about 15 miles southeast of Livermore in the hills of the Diablo Range. LLNL's primary responsibility is ensuring the safety, reliability, and performance of the nation's nuclear weapons stockpile. However, LLNL's mission is broader than stockpile stewardship, as dangers ranging from nuclear proliferation and terrorism to biosecurity and climate change threaten national security and global stability. More than eighteen (18) years have passed since the publication of the 2005 Final Site-wide Environmental Impact Statement for Continued Operation of Lawrence Livermore National Laboratory and Supplemental Stockpile Stewardship and Management Programmatic Environmental Impact Statement (2005 LLNL SWEIS). Because of proposed plans for new facilities, demolition of older facilities, enhanced and modernized site utilities projects, as well as needed modifications/upgrades of existing facilities to ensure ongoing safe operations, NNSA determined that it was appropriate to update the previous 2005 LLNL SWEIS analysis.

Under the No-Action Alternative, NNSA would continue current facility operations throughout LLNL in support of assigned missions. The No-Action

Alternative includes previously approved construction of new facilities; modernization, upgrade, and utility projects; and decontamination, decommission, and demolition (DD&D) of excess and aging facilities.

The Proposed Action in the 2023 Final LLNL SWEIS includes an increase in current facility operations or enhanced operations that would require new or modified facilities over the next 15 years. The Proposed Action also includes the scope of operations, facility construction, and DD&D under the No-Action Alternative through 2022. Continued re-investment would allow LLNL to meet mission deliverables and sustain science, technology, and engineering excellence to meet future mission requirements. In addition to the No-Action Alternative, the Proposed Action includes approximately 75 new projects, totaling approximately 3.3 million square feet, from 2023–2035. NNSA also proposes 20 types of modernization/upgrade/utility projects, most involving several facilities. Under the Proposed Action, about 150 facilities, totaling approximately 1,170,000 square feet would undergo DD&D. The Proposed Action also includes operational changes that would increase the tritium emissions limits in the National Ignition Facility (NIF) (Building 581) and the Tritium Facility (Building 331), and decrease the administrative limit for fuels-grade-equivalent plutonium in the Superblock (Building 332). In addition, the Proposed Action increases the administrative limits for plutonium-239 at Building 235, and increases the NIF administrative limits for plutonium-239 and tritium. The administrative limit changes for both Building 235 and the NIF would maintain the existing facility characterization of ''less than Hazard Category-3'' in accordance with DOE Standard (DOE–STD–1027) revisions approved for use at LLNL.

NEPA Process for This ROD

NNSA has prepared this ROD in accordance with Section 102(2)(C) of the *NEPA* (42 U.S.C. 4321–4347, as amended), regulations promulgated by the Council on Environmental Quality (CEQ) for implementing NEPA (40 CFR parts 1500–1508), and DOE's NEPA implementing regulations (10 CFR part 1021). This ROD is based on Federal law and NNSA's mission, and information and analysis in the Final LLNL SWEIS including public comments received. The Draft LLNL SWEIS was distributed electronically for review and comment as part of the public participation process. During the comment period, NNSA held two in-person hearings and one virtual hearing to receive comments on the Draft LLNL SWEIS. At the in-person hearings, an open house preceded the formal public comment period. During the open house, the public was invited to engage with NNSA personnel within their areas of expertise and ask questions about the Draft SWEIS. The in-person and virtual hearings were attended by approximately 70 persons and 29 speakers provided comments. These comments were recorded in formal transcripts. In addition to the comments during the public hearings, approximately 84 comment documents (including 41 comment documents submitted as an email campaign) were received from individuals, interested groups, and Federal, State, and local agencies during the comment period on the Draft LLNL SWEIS.

The majority of the comments received on the Draft SWEIS focused on the NEPA process, policy issues, and the scope of the Proposed Action. Scans of those comment documents are located in Volume 3 (Comment Response Document [CRD]) of the Final LLNL SWEIS. In addition, comments from the three public hearings are included in the scanned transcripts, which are also located in Volume 3. All comments received were treated equally by NNSA. Chapter 2 of Volume 3 contains summaries of all comments received on the LLNL Draft SWEIS as well as NNSA's responses to those comments. After considering all comments and modifying the Draft SWEIS, NNSA completed the Final LLNL SWEIS. NNSA posted the Final LLNL SWEIS on the NNSA NEPA Reading Room website (*www.energy.gov/nnsa/nnsa-nepa-reading-room*) and published a Notice of Availability in the **Federal Register** (88 FR 75566, November 3, 2023). Hard copies of the Final LLNL SWEIS were delivered to the City of Livermore and Tracy public libraries. During the 30-day period after the Notice of Availability, NNSA received 24 comment documents related to the Final LLNL SWEIS. This ROD includes NNSA's responses to those comments.

Summary of Impacts

Brief summaries of impacts are provided below for each resource area:

Land Use: At the Livermore Site total land disturbance would be 85.5 acres. About 26.5 acres of land would be reclaimed as a result of DD&D; 2.5 acres restored for cooling tower pipeline; and 4 acres of laydown areas would also be restored. Net change in land disturbance would be 52.5 acres. Removal of limited area fencing, expanded bicycle network, expanded pedestrian walkways, rebalanced vehicle parking, and Lake Haussmann enhancements would create more green space by 2035. At Site 300, land disturbance would be 36 acres, and 0.4 acres of land would be reclaimed as a result of DD&D, and 1 acre of laydown areas would be restored. Net change in land disturbance would be 34.6 acres. Operations would be consistent with current land use designations and historic uses of LLNL land.

Aesthetics and Scenic Resources: Construction activities would result in temporary changes to the visual appearance of both sites due to the presence of cranes, construction equipment, demolition, facilities in various stages of construction/DD&D, and possibly increased dust. The Livermore Site would remain highly developed with a campus-style or business park appearance. Changes at Site 300 would occur in the site interior and would be consistent with the existing character of the site.

Geology and Soils: Soil disturbances would be minimal; no prime farmland exists. Ongoing remediation efforts would continue to improve soil conditions at both sites. Major regional faults exist, but no active faults underlie the sites. There is no historical record of surface rupturing or faulting, although there is potential for surface faulting at Site 300. Any new facility would be designed and constructed to meet seismic design criteria commensurate with the risk category requirements. Potential impacts from geologic hazards (*i.e.,* seismic events) are discussed under ''Accidents.''

Water Resources: New facilities would increase impervious surfaces, which could increase stormwater runoff. LLNL meets stormwater compliance monitoring requirements and implementation of a Stormwater Pollution Prevention Plan would minimize any pollution that might leave the site by stormwater. Ongoing remediation efforts would continue to improve groundwater conditions at both sites. In accordance with 10 CFR part 1022, the DOE/NNSA prepared an appendix to provide an analysis of the potential impacts on floodplains and wetlands from the No-Action Alternative and Proposed Action. The New North Entry would be located in the north buffer zone and could potentially affect floodplains. The roadway for the New North Entry would cross approximately 0.9 acres (approximately 2 percent) of the 500-year floodplain (critical action floodplain) in the north buffer zone and approximately 0.1 acres (approximately 0.4 percent) of the 100-year floodplain

(base floodplain) along Arroyo Las Positas. The proposed bridge would span the Arroyo Las Positas and the roadway would continue through previously developed land onto the Livermore Site. The New Fire Station, if located near the North Entry, could disturb approximately 0.7 acres (approximately 1.6 percent) of the 500-year floodplain (critical action floodplain) but would not disturb any acres of the 100-year floodplain (base floodplain). The enhancements in Lake Haussmann would not involve wetlands or affect impoundment-waters. Even with enhancements, Lake Haussmann would continue to serve as a conveyance channel.

Air Quality: Fugitive dust would be generated during clearing, grading, and other earth-moving operations. Construction and operational emissions would not: (1) result in a considerable net increase (*i.e.,* greater than the *de minimis* thresholds) of any criteria pollutant for which the project region is non-attainment; (2) expose sensitive receptors to substantial pollutant concentrations; (3) conflict with or obstruct implementation of the applicable air quality plan; or (4) violate any air quality standard or contribute substantially to an existing or projected air quality violation. Greenhouse gas (GHG) emissions would increase by approximately 5,239 metric tons annually compared to the No-Action Alternative. These GHG emissions associated with the Proposed Action would represent 0.03 percent of the State of California GHG emissions. Radiological air emissions of tritium at the Livermore Site were estimated to be 3,610 curies based on emissions limits. There would be minimal radiological air emissions at Site 300. Impacts associated with radiological air emissions are addressed in ''Human Health and Safety.'' The estimated annual dose to the maximally exposed individual (MEI) at the Livermore Site and Site 300 would remain well below the U.S. Environmental Protection Agency (USEPA) limit of 10 millirem per year.

Noise: Although construction and DD&D activities would cause temporary noise impacts, most activities would be confined to areas more than 500 feet from the site property boundaries. Six projects at the Livermore Site and four at Site 300 would be constructed within 500 feet of a site boundary. However, offsite noise impacts would be minimal. Explosive testing noise impacts at Site 300 would be the same as for the No-Action Alternative. Explosive testing conducted at the Contained Firing Facility and on open firing tables at Site 300 would be unchanged when compared to current operations. Additionally, with regard to explosive testing, LLNL would maintain its self-imposed 126 dB impulse noise limits for offsite populated areas.

Biological Resources: The net land disturbance would be 52.5 acres (Livermore Site) and 34.6 acres (Site 300). Construction would have no appreciable impact on native vegetation, plant species of concern, wetlands or waters of the United States, viability of federally or state-listed species, or modification of United States Fish and Wildlife Service-designated critical habitat. Construction is not expected to result in adverse modification of USFWS-designated critical habitat at the Livermore Site or Site 300. Operations would be consistent with current activities and would have no appreciable impact on biological resources. Potential impacts from projects at the Livermore Site, Site 300, and the Arroyo Mocho Pumping Station would be minimized by conservation measures, which would be developed and implemented in consultation with regulatory agencies.

Cultural and Paleontological Resources: The probability of impacting archaeological resources would be low because any ground disturbing activities would be reviewed for the potential for effects prior to permit approval. Archaeological and pre-historic sites have been identified and recorded and would continue to be avoided. Because fossils and/or fossil remains have been discovered at both sites, any excavations have the potential to impact similar fossils/fossil remains. Both sites have undergone a comprehensive review to identify significant historic buildings, structures, and objects, and those that were determined eligible for the National Register have already been mitigated and are no longer eligible. The 2012 comprehensive review of architectural resources included those resources constructed prior to 1990. Therefore, buildings, structures, and objects that were built after 1990 and thus were not part of that comprehensive review may become eligible for listing on the National Register. An updated comprehensive review is planned consistent with the evaluation approach to identify significant (post-1990) historic buildings, structures, and objects, that was followed in 2007 and 2012.

Socioeconomics: Socioeconomic impacts associated with construction would be temporary and lower than operational impacts. Once steady-state operations are reached in 2035, employment at LLNL is projected to increase to 10,750 workers (10,344 workers at the Livermore Site and 406 workers at Site 300). This would represent an increase of 1,410 workers over the No-Action Alternative workforce, resulting in an estimated 860 indirect jobs in the four-county region of influence (ROI) workforce. Due to the low potential for impacts on the ROI population, operations by 2035 would not affect fire protection, police protection services, or medical services. The number of school-age children associated with the additional workforce potentially migrating into the ROI would be 908 children. The increase in school enrollment would represent 0.1 percent of the projected 2034–2035 school enrollment for the ROI. This minimal increase in school enrollment would have a negligible effect on school services in the ROI.

Environmental Justice: No high and adverse impacts from construction and operation activities at LLNL are expected. Consequently, there would be no disproportionate and adverse impacts to minority or low-income populations. For routes involving offsite shipments, modeling of all 888 potential offsite shipments would yield a bounding collective incident-free dose to the general public of 24.7 person-rem, with an associated increased risk of 0.015 latent cancer fatalities (LCF). Impacts to the minority and low-income populations along these routes would be a fraction of the LCF risk presented above and would not result in disproportionate and adverse impacts to minority or low-income populations.

Traffic and Transportation: By 2035, employment at LLNL is projected to increase by 1,410 workers over the No-Action Alternative workforce. If all 1,410 workers were to commute to the Livermore Site (which is a bounding assumption for the transportation analysis), local traffic would increase by an average of approximately 2.3 percent (note: traffic on specific roads in the vicinity of the Livermore Site would increase by 1.6—3.2 percent). The increase in traffic would not affect the level-of-service on roads in the vicinity of LLNL. The New North Entry to the Livermore Site is expected to be operational in approximately 2025. This site entry would reduce the average daily traffic (ADT) volumes on Vasco Road and Greenville Road and increase the ADT volume on Patterson Pass Road in the vicinity of the Livermore Site. The net effect would be a reduction in traffic backups and delays in the mornings on Vasco Road at the West Gate entrance.

Radiological and Hazardous Material Transportation: As a result of increased

operations and nonroutine shipments of low-level radioactive waste (LLW)/mixed LLW (MLLW) associated with DD&D, there could be more total shipments of radiological materials for the Proposed Action compared to the No-Action Alternative. Modeling all 888 potential offsite shipments results in dose to transport-crews of 69.2 person-rem per year (0.042 LCFs); incident-free dose to the general public of 24.7 person-rem (0.015 LCFs); accident risk to public of 2.9×10^{-6} LCFs; and 0.038 traffic fatalities from accidents.

Infrastructure: Electricity use, natural gas use, potable water use, and wastewater generation are all projected to increase at both sites. The onsite distribution systems and the capacities of utility providers are not expected to be adversely impacted, however any increase in water use at LLNL would add to overall water demands and supply issues in the region. NNSA will continue to evaluate the feasibility and implementation of water and energy conservation measures at LLNL.

Waste Management and Materials Management: Operations (including construction and DD&D) would generate a variety of wastes (including radioactive, hazardous, mixed, and sanitary) and would increase as a result of normal operations. NNSA does not expect additional waste associated with the Proposed Action to be unique or substantially different from the types of waste already managed within LLNL, although a larger proportion of DD&D waste and construction debris is expected. Although there could be higher quantities of hazardous materials used under the Proposed Action, NNSA does not expect additional adverse impacts from managing these materials.

Human Health and Safety: During normal operations, facilities at LLNL would release small quantities of radioactive emissions to the environment. In addition, skyshine from the NIF would provide a dose to a person standing at a public location outside the fence line. The MEI dose from the emissions and skyshine would be 4.21 millirem per year, resulting in an annual LCF risk of 0.0000025. This is below the USEPA limit of 10 millirem per year. As a comparison, background radiation is 625 millirem per year. With regard to workers, the average annual dose to a radiological worker was estimated to be 173.5 millirem per year. This would result in an annual LCF risk of 1×10^{-4} (*i.e.,* approximately 1 LCF every 9,000 years).

Site Contamination and Remediation: Remediation of groundwater and soil contamination at both the Livermore Site and Site 300 would continue. NNSA complies with provisions specified in the two Federal Facility Agreements (FFA) entered into by USEPA, DOE, the California EPA Department of Health Services (now Department of Toxic Substances Control), and the San Francisco Bay and Central Valley Regional Water Quality Control Board. Any future remediation actions would be conducted in accordance with the FFA, and NNSA did not propose any specific changes to future remediation activities in the SWEIS.

Accidents: NNSA analyzed radiological, chemical, high explosives, and biological accidents that could be caused by events such as explosions, fires, aircraft crashes, criticalities, and earthquakes. None of the accidents evaluated would cause a fatality to a member of the public, with the exception of an aircraft crash into Building 625, which could cause a population dose of 4,300 person-rem within a 50-mile radius of the site (2.6 LCFs). Because that accident has an annual probability of occurring of approximately 6.3×10^{-7}, the risks of an LCF from such an accident would be 1.6×10^{-6} (*i.e.,* 1 LCF every 610,000 years).

Intentional Destructive Acts (IDA): NNSA prepared a Security Risk Assessment (SRA) that analyzed potential impacts of intentional destructive acts at LLNL (*e.g.,* sabotage, terrorism). The SRA contains sensitive information related to security concerns and is not publicly releasable. The IDA impacts and the SWEIS accident impacts have similar consequences for radioactive materials dispersal, criticality events, chemicals, and biological events.

Environmentally Preferable Alternative

Considering the many environmental facets of the two alternatives analyzed in the LLNL SWEIS, and with consideration to the long-term effects, the No-Action Alternative is the environmentally preferred alternative because fewer adverse impacts would result compared to the Proposed Action. However, the No-Action Alternative would not meet the purpose and need for agency action.

Comments on the Final LLNL SWEIS

NNSA posted the Final LLNL SWEIS on the NNSA NEPA Reading Room website (*www.energy.gov/nnsa/nnsa-nepa-reading-room*) and published a Notice of Availability in the **Federal Register** (88 FR 75566, November 3, 2023). Hard copies of the Final LLNL SWEIS were delivered to the City of Livermore and Tracy public libraries. During the 30-day period after the Notice of Availability, NNSA received 23 comment documents related to the Final LLNL SWEIS. Of those 23 documents, 19 were part of an email campaign and contained the same comments. Four (4) unique documents with comments were received. All of the comment documents received are included in the Administrative Record for the LLNL SWEIS NEPA process. As indicated below, NNSA considered all of the comments contained in these documents during the preparation of this ROD, and provides the following comment-responses:

1. Commenters stated that NNSA inadequately responded to comments on the Draft SWEIS requesting additional alternatives and stated that the Final SWEIS failed to analyze any of the reasonable alternatives proposed by commenters, such as expansion of LLNL's focus on climate change adaptation and amelioration technologies, nuclear non-proliferation, environmental clean-up technologies, alternative fuels, clean energy technologies, battery development, energy-grid efficiency, green building technologies, and other science areas.

Response: The reasonable SWEIS alternatives are those that NNSA determined would meet the purpose and need presented in Section 1.3 of the Final SWEIS. Section 3.5 of the Final SWEIS discusses other alternatives that NNSA considered in developing this SWEIS. Other alternatives were considered as suggested by commenters during the scoping process and/or comment period for the Draft LLNL SWEIS. As discussed in Section 3.5, those alternatives, were eliminated from detailed analysis because they would not allow LLNL to fulfill its NNSA mission requirements. NNSA believes that comment-responses 6–A, 6–C, and 6–D in the Comment Response Document (CRD) in Volume 3 of the SWEIS adequately address this issue.

2. Commenters stated that plutonium pit work at LLNL remains opaque and requested that NNSA clarify the relationship of plutonium operations to expanded plutonium pit production. Commenters cited concerns with increasing the administrative limits for plutonium at Building 235 and increases in risk and plutonium shipments.

Response: NNSA believes that Chapter 2 and Appendix A of the Final SWEIS provides sufficient descriptions of the LLNL missions, programs, and activities for a reader to understand that LLNL conducts activities to meet national security requirements to maintain and enhance the safety,

security, and effectiveness of the U.S. nuclear weapons stockpile. To accomplish its missions, LLNL conducts plutonium-related activities. That has been true for more than 70 years and is expected to be true for the foreseeable future. Plutonium and pit-related activities are specifically discussed in Chapter 2 and Appendix A of the Final SWEIS. NNSA believes that increased operations at LLNL, as represented by the Proposed Action in this SWEIS, are needed for LLNL to meet national security requirements to maintain and enhance the safety, security, and effectiveness of the U.S. nuclear weapons stockpile. The proposed increase in the administrative limits for plutonium at Building 235 would maintain the existing facility limit of ''less than Hazard Category-3'' in accordance with DOE–STD–1027 revisions approved for use at LLNL. The potential impacts associated with increasing these administrative limits are addressed in Chapter 5 and Appendix C of the Final SWEIS. NNSA believes that comment-responses 1–B, 4–E, 9–A, 16–C, 19–A, and 20–F in the CRD adequately address this issue.

3. Commenters stated that the USEPA submitted comments on the Draft SWEIS with specific recommendations, most of which the NNSA disregarded. Commenters specifically cited USEPA recommendations related to: (a) *Comprehensive Environmental Response, Compensation, and Liability Act* (CERCLA) remedial actions; (b) mitigation and best management practices (BMP); (c) additional air quality monitoring along site perimeters at Site 300) to provide real time information on criteria pollutants and radiological constituents, and (d) analysis of impacts to low-income or minority populations that might be disproportionately impacted by the transportation of transuranic (TRU) waste both along the route and near the disposal sites, the Waste Isolation Pilot Plant in Carlsbad, New Mexico.

Response: Comments from the USEPA were specifically considered and addressed by NNSA as evidenced by comment-responses 24–A, 24–B–1, 24–B–2, 24–C, 24–D, 24–E, 24–F, 24–G, 24–H, 24–I, and 24–J in the CRD. NNSA believes those responses adequately address the issues and recommendations submitted by the USEPA. NNSA also notes the USEPA review comments on the Final SWEIS, stating that, ''[USEPA] appreciates the direct responses to our comments and recommendations in the Final EIS.''

(a) Ongoing remedial investigations and cleanup activities for legacy contamination of environmental media at LLNL fall under the CERCLA (42 U.S.C. 9601). NNSA complies with provisions specified in Federal Facility Agreements. As presented in the Final SWEIS, NNSA is not proposing any new CERCLA remedial actions and solutions in the SWEIS. NNSA has an ongoing Superfund cleanup program for contaminated soil and groundwater under the CERCLA process. The CERCLA process addresses ongoing remediation actions, prevention of mobilization of contaminants, and mitigations and are not repeated in this SWEIS. The proposed new facilities and DD&D activities would not change this ongoing cleanup program. Additionally, the CERCLA program is a public process as well. Any changes to the CERCLA program are negotiated with appropriate regulatory agencies before implementation.

(b) Section 5.19 of the Final SWEIS contains information on mitigation measures. Table 5–74 provides examples of design features and potential BMPs that could be utilized for new projects at LLNL. Sections 5.19.1–5.19.12 discuss these features and BMPs as applicable to the environmental resources evaluated in the SWEIS. More specific design features and BMPs will be identified and implemented during the project planning phase for any new proposed and approved work, and DD&D activities. Engineering controls will be employed to reduce potential impacts to acceptable levels for protection of human health and the environment.

(c) Air quality monitoring along site perimeters of Site 300 is established with concurrence from appropriate regulatory agencies. NNSA believes the air monitoring stations at Site 300 are adequate and ensure regulatory compliance. Surveillance monitors for radioactive particulate, tritium, and at some locations, beryllium, are well established at the perimeter of both Livermore Site and Site 300 and at off-site locations. While they are not ''real-time,'' a quick turnaround in basic radionuclide analysis is achievable by the analytical labs performing the analysis. NNSA produces an Annual Site Environmental Report that provides details on surveillance monitoring. LLNL does not exceed any regulatory limits at surveillance locations.

(d) As described in comment response 15–B of the CRD, NNSA analyzed the potential impacts (including accidents) of transporting radioactive materials and TRU waste from LLNL to disposal facilities. As discussed in Section 5.11.3.2, under the Proposed Action, modeling of all 888 potential offsite shipments would yield a bounding collective incident-free dose to the general public of 24.7 person-rem, with an associated increased risk of 0.015 LCF; and a bounding cumulative increased risk of 2.9×10^{-6} LCF to the general public from accidents that result in a container breach/release. Based on the potential routes to the disposal sites, impacts to the minority and low-income populations would consist of a fraction of the LCF risk presented above.

4. The USEPA recommends that NNSA prepare additional NEPA analyses where significant changed conditions or new circumstances related to site-specific project construction or DD&D activities are found to have the potential to violate any federal, state, and local laws or regulatory limits, or increase the potential for adverse environmental and human health impacts.

Response: NNSA agrees with the USEPA recommendation and will prepare NEPA analyses, as appropriate, for site-specific project construction or DD&D activities (that are not addressed in, or exceed, the SWEIS analysis) in accordance with the requirements of NEPA, regulations promulgated by the Council on Environmental Quality, DOE's NEPA implementing procedures (10 CFR part 1021), and NNSA Policy (NAP) 451.1.

5. The USEPA stated that it is not clear where the Site 300 air quality monitor is located and when monitoring takes place. The USEPA requests that the next National Emission Standards for Hazardous Air Pollutants (NESHAP) report, due June 30, 2024, detail this information and include a map of Site 300.

Response: The radiological air effluent sampling systems and locations are provided in Chapter 4, Table 4–9. In the next NESHAPs report, NNSA will provide additional details on the Site 300 air quality monitoring and a map of Site 300 showing the location of air monitors. Air monitoring information is also located in Chapter 4 and Appendix A of the Annual Site Environmental Report (ASER) at *https://aser.llnl.gov.*

6. With regard to per- and polyfluoroalkyl substances (PFAS), the USEPA recommends continued site characterization and monitoring of drinking water wells, groundwater and soil and continued coordination with the regional water quality control boards and the State Department of Toxic Substances Control to control the mobilization of these contaminants and mitigate impacts.

Response: NNSA agrees to continued site characterization and monitoring of drinking water wells, groundwater and soil and continued coordination with

the regional water quality control boards and the State Department of Toxic Substances Control to control the mobilization of contaminants and mitigate impacts.

Decision

The continued operation of LLNL is critical to NNSA's Stockpile Stewardship and Management Program, to prevent the spread and use of nuclear weapons worldwide, and to many other areas that may impact national security and global stability. NNSA has decided to implement the Proposed Action. The Proposed Action will enable NNSA to fulfill its statutory missions and other responsibilities, considering economic, environmental, technical, and other factors.

Basis for Decision

The Final SWEIS provided the NNSA decision-maker with important information regarding the potential environmental impacts of alternatives and options for satisfying the purpose and need. In addition to environmental information, NNSA also considered public comments, statutory responsibilities, strategic objectives, technical needs, safeguards and security, costs, and schedule in its decision-making.

Mitigation Measures

No potential adverse impacts were identified that will require additional mitigation measures beyond those required by regulations, permits, and agreements or achieved through design features or best management practices. However, if mitigation measures above and beyond those required by regulations, permits, and agreements are needed to reduce impacts during implementation, they will be developed, documented, and executed. Because no new potential adverse impacts were identified that will require additional mitigation measures beyond those required by regulation or achieved through design features or best management practices, NNSA does not expect to prepare a Mitigation Action Plan.

Signing Authority

This document of the Department of Energy was signed on February 8, 2024, by Jill Hruby, Under Secretary for Nuclear Security and Administrator, NNSA, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on February 14, 2024.

Treena V. Garrett,

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

[FR Doc. 2024–03351 Filed 2–16–24; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2023–0098; FRL–10582–10–OCSPP]

Certain New Chemicals or Significant New Uses; Statements of Findings for December 2023

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Toxic Substances Control Act (TSCA) requires EPA to publish in the **Federal Register** a statement of its findings after its review of certain TSCA submissions when EPA makes a finding that a new chemical substance or significant new use is not likely to present an unreasonable risk of injury to health or the environment. Such statements apply to premanufacture notices (PMNs), microbial commercial activity notices (MCANs), and significant new use notices (SNUNs) submitted to EPA under TSCA. This document presents statements of findings made by EPA on such submissions during the period from December 1, 2023, to December 31, 2023.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2023–0098, is available online at *https://www.regulations.gov* or in-person at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Rebecca Edelstein, New Chemical Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–1667 email address: *edelstein.rebecca@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

This action provides information that is directed to the public in general.

B. What action is the Agency taking?

This document lists the statements of findings made by EPA after review of submissions under TSCA section 5(a) that certain new chemical substances or significant new uses are not likely to present an unreasonable risk of injury to health or the environment. This document presents statements of findings made by EPA during the reporting period.

C. What is the Agency's authority for taking this action?

TSCA section 5(a)(3) requires EPA to review a submission under TSCA section 5(a) and make one of several specific findings pertaining to whether the substance may present unreasonable risk of injury to health or the environment. Among those potential findings is that the chemical substance or significant new use is not likely to present an unreasonable risk of injury to health or the environment per TSCA section 5(a)(3)(C).

TSCA section 5(g) requires EPA to publish in the **Federal Register** a statement of its findings after its review of a submission under TSCA section 5(a) when EPA makes a finding that a new chemical substance or significant new use is not likely to present an unreasonable risk of injury to health or the environment. Such statements apply to PMNs, MCANs, and SNUNs submitted to EPA under TSCA section 5.

Anyone who plans to manufacture (which includes import) a new chemical substance for a non-exempt commercial purpose and any manufacturer or

processor wishing to engage in a use of a chemical substance designated by EPA as a significant new use must submit a notice to EPA at least 90 days before commencing manufacture of the new chemical substance or before engaging in the significant new use.

The submitter of a notice to EPA for which EPA has made a finding of ''not likely to present an unreasonable risk of injury to health or the environment'' may commence manufacture of the chemical substance or manufacture or processing for the significant new use notwithstanding any remaining portion of the applicable review period.

D. Does this action have any incremental economic impacts or paperwork burdens?

No.

II. Statements of Findings Under TSCA Section 5(a)(3)(C)

In this unit, EPA provides the following information (to the extent that such information is not claimed as Confidential Business Information (CBI)) on the PMNs, MCANs, and SNUNs for which, during this period, EPA has made findings under TSCA section 5(a)(3)(C) that the new chemical substances or significant new uses are not likely to present an unreasonable risk of injury to health or the environment:

The following list provides the EPA case number assigned to the TSCA section 5(a) submission and the chemical identity (generic name if the specific name is claimed as CBI).

- P–23–0017, Hydrolyzed collagen, polymer with aromatic isocyanate, N-triethoxysylil-alkanamine, pectic polysaccharide and poly alkyl alcohol (Generic Name).
- P–23–0068, 1,3-Isobenzofurandione, hexahydro-, polymer with 1,4-cyclohexanedimethanol, isononanoate (CASRN 2773548–84–6).

To access EPA's decision document describing the basis of the ''not likely to present an unreasonable risk'' finding made by EPA under TSCA section 5(a)(3)(C), look up the specific case number at *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/chemicals-determined-not-likely.*

Authority: 15 U.S.C. 2601 *et seq.*

Dated: February 13, 2024.

Shari Z. Barash,

Acting Director, New Chemicals Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2024–03364 Filed 2–16–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2023–0475; FRL 10889–01–OW]

Draft Guidance for Future National Pollutant Discharge Elimination System (NPDES) Permitting of Combined Sewer Systems

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comment.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is seeking comment on this draft Guidance to clarify and inform future National Pollutant Discharge Elimination System (NPDES) permitting actions for communities with combined sewer systems. This draft Guidance highlights the available approaches for permitting combined sewer overflow (CSO) communities nearing completion of the projects and activities identified in their Long-Term Control Plan (LTCP). The draft Guidance summarizes options under the Clean Water Act (CWA) that are articulated in the 1994 Combined Sewer Overflow Control Policy and the option to use the EPA's 2012 Integrated Planning Framework to look holistically at future investments in controlling wastewater and stormwater discharges and improving water quality.

DATES: Comments must be received on or before March 21, 2024.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OW–2023–0475, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov* (our preferred method). Follow the online instructions for submitting comments.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Water Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery or Courier:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m. to 4:30 p.m., Monday through Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov,* including any personal information provided. For detailed instructions on sending comments, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Kathryn Kazior, Office of Wastewater Management, Water Permits Division (MC4203M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2696; email address: *kazior.kathryn@epa.gov.*

SUPPLEMENTARY INFORMATION:

Supporting Documentation. The docket contains supporting materials that were referenced in the development of this Guidance.

I. Executive Summary

The Combined Sewer Overflow (CSO) Control Policy (CSO Policy) was issued in 1994 and incorporated into the Clean Water Act (CWA) in 2000.[1] Since its issuance, communities with combined sewer systems nationwide have made substantial progress toward the goals established in the CSO Policy. During this same time, many factors that influence how communities address CSOs have evolved. Recognizing these ongoing changes and to aid communities addressing multiple municipal CWA requirements, in 2012, the EPA developed an Integrated Planning Framework that clarifies CWA flexibilities and offers a voluntary opportunity for a municipality to prioritize and sequence, where appropriate, those infrastructure projects that provide the greatest or fastest environmental and public health benefits. Integrated planning was added to the CWA in 2019.[2] The EPA is issuing this draft Guidance to clarify and inform future National Pollutant Discharge Elimination System (NPDES) permitting actions for communities with CSOs. This draft Guidance would be applicable to permitting actions once the CSO permittee has completed construction of CSO controls and demonstrated that they are achieving the performance objectives outlined in their Long-Term Control Plan (LTCP). The draft Guidance is intended to

[1] In the Wet Weather Water Quality Act of 2000, Congress added section 402(q) to the CWA to provide that each permit, order, or decree issued after December 21, 2000, for a discharge from a municipal combined storm and sanitary sewer shall conform to the 1994 Combined Sewer Overflow Control Policy (33 U.S.C. 1342(q)(1)).

[2] In the Water Infrastructure Improvement Act (H.R. 7279), Congress added section 402(s) to the CWA that defines an Integrated Plan as one developed in accordance with the 2012 Integrated Municipal Stormwater and Wastewater Planning Approach Framework; and requires the EPA to inform municipalities of the opportunity to develop an Integrated Plan that may inform permit terms and conditions to help meet their existing CWA obligations (33 U.S.C. 1342(s)). These amendments clarified that municipalities may develop an Integrated Plan as defined under the CWA and the permitting authority may develop NPDES permit terms and conditions informed by that plan.

clarify the options available for CSO communities when they are nearing completion of the projects and activities identified in their LTCPs and inform future permitting actions consistent with the CSO Policy, and the CWA. In addition, the draft Guidance provides recommendations for permitting authorities on how to develop future CSO permits in more transparent, equitable, and resilient ways.

II. Public Participation

A. Request for Public Comments

The EPA requests public comment on the draft Guidance.

B. Written Comments

Submit your comments, identified by Docket ID No. EPA–HQ–OW–2023–0475, at *https://www.regulations.gov* (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit to the EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). Please visit *https://www.epa.gov/dockets/commenting-epa-dockets* for additional submission methods; the full EPA public comment policy; information about CBI, PBI, or multimedia submissions; and general guidance on making effective comments.

III. General Information

What action is the EPA taking?

The agency is requesting comments on this draft Guidance to clarify and inform future NPDES permitting actions for communities with CSOs. Visit the EPA website at: *https://www.epa.gov/npdes/combined-sewer-overflow-control-policy* for a copy of the draft Guidance. The draft Guidance will also be available at: *https://www.regulations.gov,* Docket ID No. EPA–HQ–OW–2023–0475.

Radhika Fox,

Assistant Administrator, Office of Water.

[FR Doc. 2024–03398 Filed 2–16–24; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

TIME AND DATE: Tuesday, February 27, 2024, at 10:00 a.m. and its continuation at the conclusion of the open meeting on February 29, 2024.

PLACE: 1050 First Street NE, Washington, DC and virtual (This meeting will be a hybrid meeting.)

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance matters pursuant to 52 U.S.C. 30109.

Matters concerning participation in civil actions or proceedings or arbitration.

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer. Telephone: (202) 694–1220.

(Authority: Government in the Sunshine Act, 5 U.S.C. 552b)

Vicktoria J. Allen,

Deputy Secretary of the Commission.

[FR Doc. 2024–03459 Filed 2–15–24; 11:15 am]

BILLING CODE 6715–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meetings

TIME AND DATE: 10 a.m., Tuesday, March 12, 2024.

PLACE: The Richard V. Backley Hearing Room, Room 511, 1331 Pennsylvania Avenue NW, Suite 504 North, Washington, DC 20004 (enter from F Street entrance).

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session: *Morton Salt, Inc.,* Docket No. CENT 2023–0120. (Issues include whether the Commission has authority to review the Secretary's decision to issue a notice of pattern of violations.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Emogene Johnson (202) 434–9935/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Phone Number for Listening to Meeting: 1–(866) 236–7472. Passcode: 678–100.

Authority: 5 U.S.C. 552b.

Dated: February 15, 2024.

Sarah L. Stewart,

Deputy General Counsel.

[FR Doc. 2024–03544 Filed 2–15–24; 4:15 pm]

BILLING CODE 6735–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than March 6, 2024.

A. Federal Reserve Bank of Philadelphia (William Spaniel, Senior Vice President) 10 Independence Mall, Philadelphia, Pennsylvania 19106–1521. Comments can also be sent electronically to *comments.applications@phil.frb.org:*

1. *Castle Creek Capital Partners VIII, LP, San Diego, California;* to acquire voting shares of Blue Ridge Bankshares, Inc., Charlottesville, Virginia, and thereby indirectly acquire voting shares of Blue Ridge Bank, National Association, Martinsville, Virginia.

Board of Governors of the Federal Reserve System.

Erin Cayce,

Assistant Secretary of the Board.

[FR Doc. 2024–03397 Filed 2–16–24; 8:45 am]

BILLING CODE P

FEDERAL TRADE COMMISSION

[File No. P222100]

Horseracing Integrity and Safety Authority Registration Rule Modification

AGENCY: Federal Trade Commission.

ACTION: Notice of Horseracing Integrity and Safety Authority (HISA) proposed rule modification; request for public comment.

SUMMARY: As required by the Horseracing Integrity and Safety Act of 2020, the Federal Trade Commission publishes a proposed modification of the Horseracing Integrity and Safety Authority's rules addressing horseracing in the United States. The proposed rule modification would amend the Rule Series 9000 Registration Rules, which establish the registration requirements applicable to all Covered Horses, Covered Persons, and Racetracks. This document contains the Authority's proposed rule modification's text and explanation, and it seeks public comment on whether the Commission should approve the proposed rule modification.

DATES: The Commission must approve or disapprove the proposed modification on or before April 22, 2024. If approved, the proposed rule modification would be effective on July 1, 2024. Comments must be filed on or before March 5, 2024.

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the Comment Submissions part of the **SUPPLEMENTARY INFORMATION** section below. Write ''HISA Registration Rule Modification'' on your comment and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H–144 (Annex H), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Sarah Botha (202–326–2036), Attorney Advisor and Acting HISA Program Manager, Office of the Executive Director, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: The Horseracing Integrity and Safety Act of 2020 [1] (the ''Act'') recognizes a self-regulatory nonprofit organization, the Horseracing Integrity and Safety Authority (''HISA'' or the ''Authority''), which is charged with developing proposed rules on a variety of subjects. Those proposed rules and later proposed rule modifications take effect only if approved by the Federal Trade Commission.[2] The proposed rules and rule modifications must be published in the **Federal Register** for public comment.[3] Thereafter, the Commission has 60 days from the date of publication to approve or disapprove the proposed rule or rule modification.[4]

Pursuant to Section 3053(a) of the Act and Commission Rule 1.142, notice is hereby given that, on September 27, 2023, the Authority filed with the Commission a proposed Registration Rule modification and supporting documentation as described in Items I, II, III, IV, and IX below, which Items have been prepared by the Authority. The Office of the Secretary of the Commission determined that the filing complied with the Commission's rule governing such submissions.[5] The Commission is publishing this document to solicit comments on the proposed rule modification from interested persons.

I. Self-Regulatory Organization's Statement of the Background, Purpose of, and Statutory Basis for the Proposed Rule Modification

a. Background and Purpose

The Act recognizes that the establishment of a national set of uniform standards for racetrack safety and medication control will enhance the safety and integrity of horseracing. On April 25, 2022, the Authority filed with the Commission the Rule 9000 Series, which establishes the registration requirements for Covered Persons and Covered Horses. The Rule 9000 Series was published in the **Federal Register** on May 17, 2022,[6] and approved by the Commission by Order dated June 29, 2022.[7]

The Authority now proposes modifications to several provisions in the Rule 9000 Series. This submission is made in order to comply with the Commission's March 27, 2023 Order that directed ''the Authority to review all of its existing rules (Racetrack Safety, Assessment Methodology, Enforcement, Registration, and ADMC) and submit any proposed rule modifications to the Commission by September 27, 2023.'' [8] The Authority has reviewed all of its existing rules and this submission is filed in accordance with the March 27, 2023 Order. The modifications are limited in scope and build upon the registration system already in place. An additional reason for proposing the rule modification is to clarify and refine various details in the Rule 9000 Series Registration Rules in a manner that is consistent with the Act. The modifications are outlined in detail in Section II of this Document. In general terms, the modifications enhance and refine the requirements and procedures for the registration of Covered Persons, Covered Horses, and Racetracks.

The safety and welfare of Covered Horses will be affected and enhanced by this rule modification because the modifications will enable the Authority to possess accurate and timely information concerning Covered Persons and Covered Horses. Covered Persons will be affected by modifications that alter slightly some of the registration requirements, but the requirements as altered are not burdensome. The registration of Covered Horses and Covered Persons, including racetracks, furthers the purpose of enhancing the safety, welfare, and integrity of Covered Persons and Covered Horses, and the safe conduct of Covered Horseraces will be affected and enhanced as a result. An effective registration system provides Covered Persons with the information and guidance necessary to properly register with the Authority, establishes certain exemptions to registration, requires that registration information be updated as necessary, and provides for the registration of Covered Horses. It also requires that Covered Persons provide and update their contact information with the Authority, so that the Authority may contact a Covered Person quickly in order to address any

[1] 15 U.S.C. 3051 through 3060.

[2] 15 U.S.C. 3053(b)(2).

[3] 15 U.S.C. 3053(b)(1).

[4] 15 U.S.C. 3053(c)(1).

[5] 16 CFR 1.140 through 1.144; *see also* FTC, Procedures for Submission of Rules Under the Horseracing Integrity and Safety Act, 86 FR 54819 (Oct. 5, 2021).

[6] See FTC, Notice of HISA Registration Proposed Rule (''Notice''), 87 FR 29862 (May 17, 2022).

[7] FTC, Order Approving the Registration Rule Proposed by the Horseracing Integrity and Safety Authority (June 29, 2022), *https://www.ftc.gov/system/files/ftc_gov/pdf/P222100CommissionOrderRegistrationRuleFinal.pdf.*

[8] FTC, Order Approving the Anti-Doping and Medication Control Rule Proposed by the Horseracing Integrity and Safety Authority at 6 (Mar. 27, 2023), *https://www.ftc.gov/system/files/ftc_gov/pdf/P222100CommissionOrderAntiDopingMedication.pdf.*

safety and welfare issues concerning Covered Horses that may arise. The proposed rule modification takes into account the unique character of horseracing and Covered Persons, Covered Horseraces, and Covered Horses that will be affected by the proposed rule modification in similar ways.

The modifications have been crafted in the most precise manner possible to resolve the minor problems and specific issues that are outlined in Section II for each modification. The modifications are very tightly focused, and making these changes did not require the weighing of significant reasonable alternatives. The modifications are consistent with the Act because they further the directive of 15 U.S.C. 3054(d), which requires the Authority to establish a registration system for Covered Persons. The Authority incorporates by reference into this modification the existing standards that were set forth in the Notice of Filing of Proposed Rule that originally established the Rule 9000 Series and that was submitted to the Commission in the original filing of the Rule 9000 Series on April 25, 2022.[9]

On August 28, 2023, HISA representatives shared the draft of the Rule 9000 modifications with the following interested stakeholders for input: Racing Officials Accreditation Program; Racing Medication and Testing Consortium (Scientific Advisory Committee); National Thoroughbred Racing Association; The Jockey Club; The Jockeys' Guild; Thoroughbred Racing Association; Arapahoe Park; Rillito Downs; Thoroughbred Owners of California; California Horse Racing Board; Kentucky Racing Commission; Delaware Racing Commission; Maryland Racing Commission; National Horsemen's Benevolent and Protective Association; Thoroughbred Horsemen's Association; Thoroughbred Owners and Breeders Association; Kentucky Thoroughbred Association; American Association of Equine Practitioners; American Veterinary Medical Association; Stronach Racing Group (5 thoroughbred racetracks); Churchill Downs (6 thoroughbred racetracks); Breeders' Cup; Keeneland; Del Mar; and the Racing Operations Committee. Additionally, on August 28, 2023, the draft of the proposed modifications was made available to the public for review and comment on the HISA website at *https://hisaus.org/*. No comments were received regarding the Registration Rule or the proposed rule modification.

With the review, input and ultimate approval of the Authority's Board of Directors, the proposed rule modification to the Rule 9000 Series modifies and enhances the registration rules. HISA submits herewith the proposed rule modification for Commission approval. As required by 15 U.S.C. 3053(c)(2), the rules are consistent with the Act and the rules approved by the Commission. Pursuant to 16 CFR part 1, subpart S 1.142(a)(7), the Authority proposed January 5, 2024, as the date for the **Federal Register** to publish this proposed rule modification.

b. Statutory Basis

The Horseracing Integrity and Safety Act of 2020, 15 U.S.C. 3051 through 3060.

II. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Modification

The Authority's Registration Rule was guided by the purposes and objectives of the Act, and in particular the Act's explicit directive in 15 U.S.C. 3054(d)(1) that Covered Persons be required to register with the Authority in accordance with rules promulgated by the Authority and approved by the Commission. The Registration Rule establishes the requirements and procedures for the registration of Covered Persons and Covered Horses.

Rule 9000(a) is modified to exempt Owners having an ownership or beneficial interest in a Covered Horse of less than five (5) percent from registration unless such owner is or becomes a Responsible Person as defined in Rule 2010. Many state racing commissions exempt individuals who own a small percentage of a horse from licensure requirements. The Authority has determined that the registration of Owners having an ownership or beneficial interest in a horse of less than five (5) percent is not necessary for the safety, welfare, and integrity of Covered Persons and Covered Horses, and the safe conduct of Covered Horseraces unless the owner is or becomes the Responsible Person. The remainder of the modifications in Rule 9000(a) are stylistic edits.

Currently, Rule 9000(b) requires that a Covered Person provide a mobile phone number or email address, or both if available. The modification requires an email address and a mobile phone number, if the Covered Person possesses a mobile phone. The Authority uses email addresses to communicate with Covered Persons. Quite simply, a Covered Person needs to provide an email address so that the Covered Person can receive communications from the Authority. The remainder of the modifications in Rule 9000(b) are stylistic edits.

Rule 9000(d) is amended to require that any Covered Person who registers as a Veterinarian shall also provide the name and contact information for any clinic or practice that the Veterinarian is associated with, along with the Veterinarian's state license number. The information pertaining to the clinic facilitates maintenance of and access to veterinary records and will allow trainers to identify a clinic by name instead of a specific Veterinarian who might change from visit to visit. The state license number will allow the Authority to check and verify the Veterinarian's status.

Rule 9000(e), which sets forth the registration requirements for Racetracks, is amended to add the following clause: ''4. Any other information reasonably required by the Authority to fulfill its statutory duties under the Act.'' This clause is already included in the Registration Rule for Covered Horses and Covered Persons but was inadvertently omitted in the Registration Rule relating to Racetracks. The remainder of the modifications in Rules 9000(e), 9000(f) and 9000(g) are stylistic edits.

Rule 9000(h) was moved to Rule 9000(i) since it should more properly be located at the end of the rule series; it prescribes the general requirements to provide complete and accurate information and to report any material changes to the information and establishes penalties for failure to comply with the registration rules. The only substantive change to the section was the addition of the failure of a Responsible Person to register a Covered Horse as a violation. This addition comes from Rule 9000(j) and means that the penalties can be consolidated and listed in Rule 9000(i). The remainder of the modifications in Rule 9000(i) are stylistic edits.

The registration of Covered Horses is now set forth in Rule 9000(h). The Act states that a horse becomes a Covered Horse on the date of the horse's first timed and reported workout at a Racetrack that participates in Covered Horseraces or at a training facility. This language was added to the rule to make clear when the duty to register a Covered Horse occurs. Rule 9000(h)(3) is modified as follows: ''The designated ID number of the Owner (who must be registered) of the Covered Horse or if the Covered Horse is owned by an entity, the entity name (who must be registered) shall be provided along with

[9] These standards are available as Exhibit A on the docket for this publication at *https://www.regulations.gov*.

a designated owner of the entity who is a natural person (who must be registered).'' This provision will ensure that every registered Covered Horse is associated with a registered individual. This will facilitate communication between the Authority and the registered individual and will ensure the accountability of the registered individual for the Covered Horse. Although the previous provision required that the location of the Covered Horse be provided, the new provision makes clear that the location of the Covered Horse must ''be updated by the Responsible Person within twenty-four (24) hours of the Covered Horse arriving at its new location.'' In addition, the modification requires that if ''the Covered Horse suffers a fatal condition, the Responsible Person within three (3) days of the date of the fatality shall update the Covered Horse's status as deceased, provide the date of the fatality and an explanation regarding the cause of the fatal condition.'' In order for the Authority to promote the safety, welfare, and integrity of Covered Persons and Covered Horses, and the safe conduct of Covered Horseraces, it is necessary for the Authority to know the location of Covered Horses and, if the Covered Horse has suffered a fatal condition, the fatality is reported to the Authority. The remainder of the modifications in Rule 9000(h) are stylistic edits.

III. Compliance With the Commission's March 27, 2023 Order

In accordance with the Commission's March 27, 2023 Order, the Authority states that no comments were submitted by commenters on the **Federal Register** from the original Registration Rule submission where the Authority in its June 6, 2022 letter to the Commission committed to further consider the suggestions.

IV. Legal Authority

This rule is proposed by the Authority for approval or disapproval by the Commission under 15 U.S.C. 3053(c)(1).

V. Date of Effectiveness

If approved by the Commission, this proposed rule will take effect on July 1, 2024.

VI. Request for Comments

Members of the public are invited to comment on the Authority's proposed rule. The Commission requests that factual data on which the comments are based be submitted with the comments. The supporting documentation referred to in the Authority's filing are available for public inspection on the docket for this matter at *https://www.regulations.gov.*

The Commission seeks comments that address the decisional criteria provided by the Act. The Act gives the Commission two criteria against which to measure proposed rules and rule modifications: ''The Commission shall approve a proposed rule or modification if the Commission finds that the proposed rule or modification is consistent with—(A) this chapter; and (B) applicable rules approved by the Commission.'' [10] In other words, the Commission will evaluate the proposed rule for its consistency with the specific requirements, factors, standards, or considerations in the text of the Act as well as the Commission's procedural rule.

Although the Commission evaluates the Authority's proposed rule for its consistency with the Act and the Commission's procedural rule, the Commission may consider broader questions—about the health and safety of horses and jockeys, the integrity of horseraces and wagering on horseraces, and the administration of the Authority itself—in another context: ''The Commission . . . may abrogate, add to, and modify the rules of the Authority promulgated in accordance with this chapter as the Commission finds necessary or appropriate to ensure the fair administration of the Authority, to conform the rules of the Authority to requirements of this chapter and applicable rules approved by the Commission, or otherwise in furtherance of the purposes of this chapter.'' [11] The Commission may exercise this rulemaking power on its own initiative or in response to a petition from a member from the public. If members of the public wish to provide comments to the Commission about its use of the rulemaking power, they are encouraged to submit a petition requesting that the Commission issue a rule addressing the subject of interest. The petition must meet all the criteria established in the Rules of Practice (part 1, subpart D); [12] if it does, the petition will be published in the **Federal Register** for public comment. In particular, the petition for a rulemaking must ''identify the problem the requested action is intended to address and explain why the requested action is necessary to address the problem.'' [13]

[10] 15 U.S.C. 3053(c)(2).

[11] 15 U.S.C. 3053(e) (as amended by the Consolidated Appropriations Act, 2023, H.R. 2617, 117th Cong., Division O, Title VII (2022)).

[12] 16 CFR 1.31; *see* FTC, Procedures for Responding to Petitions for Rulemaking, 86 FR 59851 (Oct. 29, 2021).

[13] 16 CFR 1.31(b)(3).

VII. Comment Submissions

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before March 5, 2024. Write ''HISA Registration Rule Modification'' on your comment. Your comment—including your name and your State—will be placed on the public record of this proceeding, including the *https://www.regulations.gov* website.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we strongly encourage you to submit your comments online. To make sure the Commission considers your online comment, you must file it at *https://www.regulations.gov,* by following the instructions on the web-based form.

If you file your comment on paper, write ''HISA Registration Rule Modification'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H–144 (Annex H), Washington, DC 20580. If possible, please submit your paper comment to the Commission by overnight service.

Because your comment will be placed on the public record, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not contain sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other State identification number or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential''—as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including, in particular, competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c). In particular, the written

request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at *https://www.regulations.gov*—as legally required by FTC Rule 4.9(b), 16 CFR 4.9(b)—we cannot redact or remove your comment, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website to read this document and any news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments it receives on or before March 5, 2024. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/siteinformation/privacypolicy.*

VIII. Communications by Outside Parties to the Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding, from any outside party to any Commissioner or Commissioner's advisor, will be placed on the public record. *See* 16 CFR 1.26(b)(5).

IX. Self-Regulatory Organization's Proposed Rule Language

The following language reflects the Registration Rule with the proposed modifications incorporated. A redline version that shows every way in which the previously approved Registration Rule would be modified by the proposed rule modification is available as Exhibit B on the docket at *https://www.regulations.gov.*

9000. Registration of Covered Persons and Covered Horses

(a) Registration Requirement for Covered Persons. A Covered Person (as defined by 15 U.S.C. 3051(6)) shall register with the Authority in accordance with this rule on the Horseracing Integrity and Safety Authority website at *https://portal.hisausapps.org/registration.* Provided, however, Owners having an ownership or beneficial interest in a horse of less than five (5) percent shall not be required to register unless such owner is or becomes a Responsible Person as defined in Rule 2010. At the end of each successive twelve-month period, calculated from the date of a Covered Person's initial registration, a Covered Person shall review the accuracy of information previously submitted on the website, and update the information as necessary. An individual who is no longer a Covered Person may request the Authority to have his or her name removed from registration with the Authority.

(b) Information Required for Registration of Covered Persons. The following information shall be provided by all Covered Persons who register as individuals with the Authority:

(1) The Covered Person's name, physical address, and permanent mailing address;

(2) The Covered Person's email address;

(3) If the Covered Person possesses a mobile phone, the mobile phone number;

(4) Identification of all racing jurisdictions in which the Covered Person is currently licensed and the occupation(s) for which the Covered Person is licensed;

(5) If required by the Authority, an image of at least one currently valid license issued to the Covered Person by a racing regulatory authority; and

(6) Any other information reasonably required by the Authority to fulfill its statutory duties under the Act.

(c) Jockeys and Jockey Agents. Jockeys shall identify the Jockey agents who represent them. Jockey agents shall identify the Jockeys whom they represent.

(d) Veterinarians. A Covered Person who registers as a veterinarian shall also provide (i) the name and contact information for any clinic or practice that the veterinarian is associated with; and (ii) all jurisdictions in which the registrant is currently licensed by state veterinary licensing authorities and the registrant's license number for each such jurisdiction.

(e) Racetracks. A Racetrack licensed by a state racing commission to conduct Covered Horseraces (as defined by 15 U.S.C. 3051(5)) shall register with the Authority, and shall provide and update as necessary the following information:

(1) The name and contact information, including email address and direct phone number, of the Director or Officer with principal responsibility for conducting Covered Horseraces to serve as the contact person for the Racetrack;

(2) The Racetrack's physical address, mailing address, phone number and general delivery email address;

(3) Identification of the majority or controlling ownership interests of the Racetrack. Any change in the majority or controlling ownership interests or control of a Racetrack shall constitute a material change and shall be reported to the Authority within 30 days following the change; and

(4) Any other information reasonably required by the Authority to fulfill its statutory duties under the Act.

(f) Registration Exemptions. Vendors of goods or services and racetrack employees or contractors who do not have access to restricted areas of a Racetrack in the ordinary course of carrying out their duties are not required to register with the Authority. For purposes of this rule, mutuel employees are deemed not to have access to restricted areas of a Racetrack.

(g) Agreement With Respect to Authority Rules, Standards, and Procedures. Pursuant to 15 U.S.C. 3054(d) of the Act, a Covered Person who registers with the Authority shall agree to be subject to and comply with the rules, standards, and procedures of the Authority developed and approved under 15 U.S.C. 3054(c). These rules, standards, and procedures are set forth in the Rule 8000 Series.

(h) Registration of Covered Horses. Responsible Persons (as defined in Rule 2010) shall ensure that Covered Horses (as defined by 15 U.S.C. 3051(4)) are registered with the Authority on the date of the horse's first timed and reported workout at a Racetrack that participates in Covered Horseraces or at a training facility. The following information shall be provided by all Covered Persons who register horses with the Authority:

(1) The Covered Horse's name and year of birth;

(2) The name of the dam of the Covered Horse;

(3) The designated Owner (who must be registered) of the Covered Horse or if the Covered Horse is owned by an entity, the entity name (who must be registered) shall be provided along with a designated owner of the entity who is a natural person (who must be registered);

(4) The location of the Covered Horse, which shall be updated by the Responsible Person within twenty-four (24) hours of the Covered Horse arriving at its new location;

(5) The Vaccine and Health Information required by Rule 2143;

(6) If the Covered Horse suffers a fatal condition, the Responsible Person within three (3) days of the date of the

fatality shall update the Covered Horse's status as deceased, provide the date of the fatality and an explanation regarding the cause of the fatal condition; and

(7) Any other information reasonably required by the Authority to fulfill its statutory duties under the Act.

(i) Accuracy of and Changes to Registration Information.

(1) Complete and Correct Information. Information provided by a Covered Person in the course of registration pursuant to the Rule 9000 Series shall be complete and correct.

(2) Material Changes in Registration Information. A Covered Person registered with the Authority shall timely update registration information to accurately report any material changes in any information required for registration by the Authority, including the information required under Rule 9000(h).

(3) Penalties. As set forth in Rule 8100(g), failure to register with the Authority, failure of a Responsible Person to register a Covered Horse, knowingly making a false statement, omitting information in an application for registration with the Authority, or failure to advise the Authority of material changes in information provided to the Authority as required under any provision in Authority rules shall constitute a violation and shall be subject to the sanctions set forth in Rule 8200 and the disciplinary procedures set forth in Rule 8300.

By direction of the Commission.

April J. Tabor,

Secretary.

[FR Doc. 2024–03301 Filed 2–16–24; 8:45 am]

BILLING CODE 6750–01–P

GENERAL SERVICES ADMINISTRATION

[Notice M1Y–2024–01; Docket No. 2024–0002; Sequence No.8]

Notice of the Federal Chief Information Officers Council Innovation Committee's Disruption and Discovery: AI, Data, and Quantum Symposium

AGENCY: General Services Administration, Office of Government-wide Policy, Office of Executive Councils, Federal Chief Information Officers (CIO) Council, Innovation Committee.

ACTION: Meeting notice.

SUMMARY: Join leaders across the federal government for an immersive one-day symposium exploring the technologies transforming our future. Through keynote addresses and fireside chats, gain insider perspectives from those using AI to combat and reduce fraud to those safeguarding our digital lives in the emerging quantum era and designing the future of data security across government. Learn about the technical breakthroughs employees at the National Labs are making to improve the lives of the American public. This symposium will spotlight the intersections of technology, innovation, and open government—shaping the digital tomorrow and harnessing the power of technology to drive mission impact. Join us at the frontier of what's next.

DATES: Tuesday, March 5, 2024 from 9:00 a.m. to 3:30 p.m. Eastern Standard Time.

ADDRESSES: GSA Headquarters, 1800 F St. NW, Washington, DC Jess Mellon Auditorium.

This is an in-person event. All attendees, including industry partners, must register for the event here: *https://gsa.zoomgov.com/meeting/register/vJItduGsrjMjH5WV7BYKLsSQqKxMPZqEU5w.*

Members of the press are invited to attend but are required to register with the GSA press office (via email *press@gsa.gov)* by Tuesday, February 27, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Ariel Crawford, Office of Government-wide Policy, at 301–653–7198 or *ariel.crawford@gsa.gov.*

SUPPLEMENTARY INFORMATION:

Background

Format

The Disruption and Discovery: AI, Data, and Quantum on the Symposium convenes leaders from the Federal Government to discuss their experiences with emerging technologies. The summit will include keynotes and Fireside Chats with featured speakers.

If you have questions for the panelists, you can email them to CIO Council Support at *ciocouncil.support@gsa.gov* by Tuesday, February 27, 2024.

Special Accommodations

American Sign Language (ASL) interpreters will be in attendance. If additional accommodations are needed, please indicate on the Zoom registration form.

Live Speakers (Subject to change without notice.)

Hosted by

- Federal CIO Council Innovation Committee

Agenda Topic Areas

- AI vs. Fraudsters: How New Technologies Are Tilting the Battle
- The Promise and Potential of Quantum Computing
- Data Management Is Critical to Making Zero Trust a Reality
- Pushing the Frontiers of Innovation: Research and Discovery at the National Labs

Ariel Crawford,

Senior Advisor, Federal Chief Information Officers (CIO) Council, Office of Government-wide Policy, General Services Administration.

[FR Doc. 2024–03329 Filed 2–16–24; 8:45 am]

BILLING CODE 6820–69–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

National Advisory Council for Healthcare Research and Quality: Request for Nominations for Members

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice of request for nominations for members.

SUMMARY: The National Advisory Council for Healthcare Research and Quality (the Council) advises the Secretary of HHS (Secretary) and the Director of the Agency for Healthcare Research and Quality (AHRQ) with respect to activities proposed or undertaken to carry out AHRQ's statutory mission. AHRQ produces evidence to make health care safer, higher quality, more accessible, equitable, and affordable, and works within the U.S. Department of Health and Human Services and with other partners to make sure that the evidence is understood and used. Seven new members will be appointed to replace seven current members whose terms will expire in November 2024.

DATES: Nominations should be received on or before 60 days after date of publication.

ADDRESSES: Nominations should be sent by email to Jaime Zimmerman at *NationalAdvisoryCouncil@ahrq.hhs.gov.*

FOR FURTHER INFORMATION CONTACT: Jaime Zimmerman, AHRQ, at (301) 427–1456.

SUPPLEMENTARY INFORMATION: 42 U.S.C. 299c provides that the Secretary shall appoint to the Council twenty-one appropriately qualified individuals. At least seventeen members shall be representatives of the public and at least

one member shall be a specialist in the rural aspects of one or more of the professions or fields listed below. In addition, the Secretary designates, as ex officio members, representatives from other Federal agencies, principally agencies that conduct or support health care research, as well as Federal officials the Secretary may consider appropriate. 42 U.S.C. 299c(c)(3).

Seven current members' terms will expire in November 2024. To fill these positions, we are seeking individuals who: (1) are distinguished in the conduct of research, demonstration projects, and evaluations with respect to health care; (2) are distinguished in the fields of health care quality research or health care improvement; (3) are distinguished in the practice of medicine; (4) are distinguished in other health professions; (5) represent the private health care sector (including health plans, providers, and purchasers) or are distinguished as administrators of health care delivery systems; (6) are distinguished in the fields of health care economics, information systems, law, ethics, business, or public policy; and (7) represent the interests of patients and consumers of health care, 42 U.S.C. 299c(c)(2). Individuals are particularly sought with experience and success in these activities. AHRQ will accept nominations to serve on the Council in a representative capacity.

The Council meets in the Washington, DC, metropolitan area, generally in Rockville, Maryland, approximately three times a year to provide broad guidance to the Secretary and AHRQ's Director on the direction of and programs undertaken by AHRQ.

Seven individuals will be selected by the Secretary to serve on the Council beginning with the meeting in the spring of 2024. Members generally serve 3-year terms. Appointments are staggered to permit an orderly rotation of membership.

Interested persons may nominate one or more qualified persons for membership on the Council. Self-nominations are accepted. Nominations shall include: (1) a copy of the nominee's resume or curriculum vitae; and (2) a statement that the nominee is willing to serve as a member of the Council. Selected candidates will be asked to provide detailed information concerning their financial interests, consultant positions and research grants and contracts, to permit evaluation of possible sources of conflict of interest. Please note that once a candidate is nominated, AHRQ may consider that nomination for future positions on the Council.

The Department seeks a broad geographic representation. In addition, AHRQ conducts and supports research concerning priority populations, which include: Inner city; rural; low income; minority; women; children; elderly; and those with special health care needs, including those who have disabilities, need chronic care, or need end-of-life health care. See 42 U.S.C. 299(c). AHRQ also includes in its definition of priority populations those groups identified in section 2(a) of Executive Order 13985 as members of underserved communities: Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality. Nominations of persons with expertise in health care for these priority populations are encouraged.

Dated: February 14, 2024.

Marquita Cullom,

Associate Director.

[FR Doc. 2024–03401 Filed 2–16–24; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10110]

Agency Information Collection Activities: Proposed Collection; Comment Request

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

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by April 22, 2024.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: ____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10110 Manufacturer Submission of Average Sales Price (ASP) Data for Medicare Part B Drugs and Biologicals

Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests

or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires Federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Revision of currently approved collection; *Title of Information Collection:* Manufacturer Submission of Average Sales Price (ASP) Data for Medicare Part B Drugs and Biologicals; *Use:* Section 1847A of the Act requires that the Medicare Part B payment amounts for covered drugs and biologicals not paid on a cost or prospective payment basis be based upon manufacturers' average sales price data submitted quarterly to the Centers for Medicare & Medicaid Services (CMS). The reporting requirements are specified in 42 CFR part 414 subpart J.

CMS, specifically, the Division of Data Analysis and Market-based Pricing (DDAMBP) will utilize the ASP data (ASP and number of units sold as specific in section 1847A of the Act) to determine the Medicare Part B drug payment amounts for CY 2005 and beyond. The manufacturers submit their ASP data for all of their National Drug Codes (NDC) for Part B drugs. DDAMBP compiles the data, analyzes the data and runs the data through software to calculate the volume-weighted ASP for all of the NDCs that are grouped within a given HCPCS code. The formula to calculate the volume-weighted ASP is the Sum (ASP * units) for all NDCs/Sum (units * bill units per pkg) for all NDCs. DDAMBP provides ASP payment amounts for several components within CMS that utilize 1847(A) payment methodologies to implement various payment policies including, but not limited to, ESRD, OPPS, OTP and payment models. CMS will also use reported ASP and units to calculate inflation adjusted coinsurance and rebates. The Department of Health and Human Services' Office of the Inspector General also uses the ASP data in conducting studies. *Form Number:* CMS–10110 (OMB Control Number: 0938–0921); *Frequency:* Quarterly; *Affected Public:* Private and Business or other for-profits; *Number of Respondents:* 500; *Number of Responses:* 2,00; *Total Annual Hours:* 26,000. (For policy questions regarding this collection contact Felicia Brown at (410) 786–9287 or *Felicia.brown@cms.hhs.gov*).

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024–03348 Filed 2–16–24; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10466]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

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

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by March 21, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Patient Protection and Affordable Care Act; Exchange Functions: Eligibility for Exemptions; *Use:* The data collection and reporting requirements in ''Patient Protection and Affordable Care Act; Exchange Functions: Eligibility for Exemptions; Miscellaneous Minimum Essential Coverage Provisions'' (78 FR 39494 (July 1, 2013)), address Federal requirements that states must meet with regard to the Exchange minimum function of performing eligibility determinations and issuing certificates of exemption from the shared responsibility payment. In the final regulation, CMS addresses standards related to eligibility, including the verification and eligibility determination process, eligibility redeterminations, options for states to rely on HHS to make eligibility determinations for certificates of exemption, and reporting. CMS developed four appendices of

application materials to illustrate the process applicants use to apply for exemptions from the shared responsibility payment. This information collection requests seeks approval for the requirements associated with the collection of information associated with these four appendices. No comments were received in response to the 60-day comment period. *Form Number:* CMS–10466 (OMB control number 0938–1190); *Frequency:* Annually; *Affected Public:* Individuals and Households—State, Local, or Tribal Governments; *Number of Respondents:* 849; *Total Annual Responses:* 849; *Total Annual Hours:* 1,962. (For policy questions regarding this collection contact John Kenna at 301–492–4452.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024–03363 Filed 2–16–24; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10662 and CMS–10219]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

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

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by March 21, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Administrative Simplification HIPAA Compliance Review; *Use:* Section 1173 of the Social Security Act (the Act), 42 U.S.C. 1320d–2, and section 264 of HIPAA require the Secretary to adopt a number of national standards to facilitate the exchange of certain health information and to protect the privacy and security of such information.

The Secretary promulgated rules that relate to compliance with, and enforcement of, the HIPAA rules, which are codified at 45 CFR part 160, subparts C, D, and E and collectively referred to as the Enforcement Rule. The Secretary first issued an interim final rule promulgating the procedural requirements for imposition of civil money penalties on violations of the privacy standards on April 17, 2003, Civil Money Penalties: Procedures for Investigations, Imposition of Penalties (68 FR 18896). The Secretary subsequently proposed a rule on April 18, 2005, HIPAA Administrative Simplification: Enforcement; Proposed Rule (70 FR 20224), proposing the amendment of 45 CFR part 160, subparts A (General Provisions), C (Compliance and Enforcement), and E (Procedures for Hearing), and proposing a new subpart D (Imposition of Civil Money Penalties) that addressed the substantive issues related to the imposition of civil money penalties and proposing the above provisions be applied to all HIPAA rules.

The purpose of this collection is to retrieve information necessary to conduct a compliance review and carry out the authority delegated to CMS as described in CMS–0014–N (68 FR 60694). These forms will be submitted to the Centers for Medicare & Medicaid Services (CMS), National Standards Group, from entities covered by HIPAA Administrative Simplification regulations. This collection is not applicable to HIPAA Privacy and Security Rules. *Form Number:* CMS–10662 (OMB Control Number: 0938–1390); *Frequency:* Weekly; *Affected Public:* Private, State, Local, or Tribal Governments, Federal Government, Business or other for-profits, Not-for-profits institutions; *Number of Respondents:* 50; *Total Annual Responses:* 50; *Total Annual Hours:* 500. (For policy questions regarding this collection contact Kevin Stewart at (410) 786–6149.)

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* HEDIS Data Collection for Medicare Advantage; *Use:* Sections 422.152 and 422.516 of title 42 of the Code of Federal Regulations (CFR) specify that MAOs must submit quality performance measures as specified by the Secretary of the Department of Health and Human Services and by CMS. These quality performance measures include HEDIS®. HEDIS® data are used in the Medicare Part C Star Ratings which are used to determine Quality Bonus Payments to Medicare Advantage contracts.

CMS requires MAOs, § 1876 cost contracts, and Medicare Medicaid Plans (MMPs or demonstrations) to submit HEDIS® data on an annual basis to (1) assess care that is provided to Medicare beneficiaries and (2) to provide information to Medicare beneficiaries to make more informed decisions when choosing a health plan.

The HEDIS® data collection supports the CMS strategic goals of advancing health equity and improving health outcomes for Medicare beneficiaries. The HEDIS® measures are part of the Medicare Part C Star Ratings as described at §§ 422.160, 422.162, 422.164, and 422.166. CMS publishes the Medicare Part C Star Ratings each year to: (1) incentivize quality improvement in Medicare Advantage (MA); and (2) assist beneficiaries in finding the best plan for them. The Star Ratings are used to determine MA Quality Bonus Payments. *Form Number:* CMS–10219 (OMB control number: 0938–1028); *Frequency:* Yearly; *Affected Public:* Private Sector, Business or other for-profits and Not-for-profits institutions; *Number of Respondents:* 808; *Total Annual Responses:* 808; *Total Annual Hours:* 258,560. (For policy questions regarding this collection contact Lori Luria at *Lori.Luria@cms.hhs.gov*).

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024–03344 Filed 2–16–24; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Health Professions Student Loan Program, Loans for Disadvantaged Students Program, Primary Care Loan Program, and Nursing Student Loan Program Administrative Requirements, OMB No. 0915–0047—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period. OMB may act on HRSA's ICR only after the 30-day comment period for this notice has closed.

DATES: Comments on this ICR should be received no later than March 21, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Joella Roland, the HRSA Information Collection Clearance Officer, at *paperwork@hrsa.gov* or call (301) 443–3983.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Health Professions Student Loan (HPSL) Program, Loans for Disadvantaged Students (LDS) Program, Primary Care Loan (PCL) Program, and Nursing Student Loan (NSL) Program Administrative Requirements, OMB No. 0915–0047—Revision.

Abstract: This clearance request is for approval of the HPSL Program, LDS Program, PCL Program, and NSL Program Administrative Requirements.

The HPSL Program, authorized by Public Health Service (PHS) Act sections 721–722 and 725–735, is a grant program where recipients provide long-term, low-interest loans to students attending schools of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatric medicine, and pharmacy. The LDS Program, authorized by PHS Act sections 721–722 and 724–735, is a grant program where recipients provide long-term, low interest loans to certain students attending schools of allopathic medicine, osteopathic medicine, podiatric medicine, dentistry, optometry, pharmacy, and veterinary medicine. The PCL Program, authorized by PHS Act sections 721–723 and 725–735, is a grant program where recipients provide long-term, low interest loans to students attending schools of allopathic medicine and osteopathic medicine to practice primary health care. The NSL Program, authorized by PHS Act sections 835–842, is a grant program where recipients provide long-term, low-interest loans to students who attend eligible schools of nursing in programs leading to a diploma degree, an associate degree, a baccalaureate degree, or a graduate degree in nursing. These programs have a number of recordkeeping and reporting requirements for academic institutions and loan applicants. The applicable program regulations are found in 42 CFR 57.201–218 and 57.301–318. HRSA proposes revisions to the Annual Operating Report (AOR)-HRSA Form 501 completed by institutions participating in the HPSL, LDS, PCL, and NSL Programs to obtain additional information about those institutions and their student borrowers.

A 60-day notice was published in the **Federal Register** on September 7, 2023, vol. 88, No. 172; pp. 61602–04. There were no public comments.

There was a miscalculation of the total burden hours as previously reported in the 60-day FRN, which is updated below to properly account for the 25,080 HPSL/LDS/PCL and NSL Recordkeeping Requirement total hours that were shown but not added in the overall total. The total burden hours are now 353,059, which represents a 7.6 percent increase when compared to the total burden reported in the last ICR.

Need and Proposed Use of the Information: Participating HPSL, LDS, PCL, and NSL schools are responsible for determining the eligibility of applicants, making loans, and collecting monies owed by borrowers on their outstanding loans. Participating schools include schools that are no longer disbursing loans but are required to report and maintain program records, student records, and repayment records until all student loans are repaid in full, and all monies due to the federal government are returned. The Deferment Form, HRSA Form 519, provides the schools with documentation of a borrower's deferment status, as detailed for the HPSL Program under 42 CFR 57.210 and NSL under 42 CFR 57.310, and is included with minor revisions. The proposed revisions to the AOR are to modify the options selected for gender identification consistent with Executive Order 14075 and best practices in data collection recommended by the Office of Management and Budget. Additionally, the Deferment Form is being updated to provide specific directions for the submission requirements to notify students that the deferment request must be submitted to the institution 30 days prior to the payment due date. The institution must respond to the student 30 days after receipt of the student request.

Likely Respondents: Institutions who have received HPSL, LDS, PCL, and/or NSL Program awards.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in Table 1 below.

TABLE 1—TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Instrument (HPSL, LDS, PCL, & NSL)	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Deferment—HRSA Form 519	2,060	1	2,060	0.500	1,030
AOR–HRSA—Form 501	726	1	726	12.000	8,712
Total	2,786		2,786		9,742

Table 2 shows the estimated burden for schools to maintain required records on the history and status for each loan account, which is necessary to complete the forms listed in Table 1 above.

TABLE 2—TOTAL ESTIMATED ANNUALIZED BURDEN HOURS FOR RECORDKEEPING REQUIREMENTS

Data required to be submitted	Number of record keepers	Hours per year	Total burden hours
HPSL, LDS, and PCL Program:			
Documentation of Cost of Attendance	432	1.050	454
Promissory Note	432	1.250	540
Documentation of Entrance Interview	432	1.250	540
Documentation of Exit Interview	*475	0.370	176
Program Records	*475	10.000	4,750
Student Records	*475	10.000	4,750
Repayment Records	*475	19.550	9,286
HPSL/LDS/PCL Subtotal	475		20,496
NSL Program:			
Documentation of Cost of Attendance	304	0.250	76
Promissory Note	304	0.500	152
Documentation of Entrance Interview	304	0.500	152
Documentation of Exit Interview	*486	0.140	68
Program Records	*486	5.000	2,430
Student Records	*486	1.000	486
Repayment Records	*486	2.510	1,220
NSL Subtotal	486		4,584

*Includes active and closing schools.

Table 3 shows the estimated burden for schools to complete reporting requirements for loan records, which is necessary to complete the forms listed in Table 1 above.

	Number of respondents	Responses per respondent	Total annual responses	Hours per response	Total burden hours
HPSL, LDS, and PCL:					
Student Financial Aid Transcript	4,600	1.0	4,600	0.250	1,150
Loan Information Disclosure	325	299.5	97,338	0.630	61,323
Entrance Interview	325	139.5	45,338	0.500	22,669
Exit Interview	*334	113.5	37,909	1.000	37,909
Notification of Repayment	*334	862.5	288,075	0.380	109,469
Notification During Deferment	*333	17.0	5,661	0.630	3,566
Notification of Delinquent Accounts	334	172.5	57,615	1.250	72,019
Credit Bureau Notification	334	6.0	2,004	0.500	1,002
Write-off of Uncollectable Loans	520	1.0	520	3.000	1560
Disability Cancellation	3	1.0	3	1.000	3
Administrative Hearings record retention	0	0.0	0	0.000	0

	Number of respondents	Responses per respondent	Total annual responses	Hours per response	Total burden hours
Administrative Hearings reporting requirements	0	0.0	0	0.000	0
HPSL Subtotal					310,670
NSL:					
Student Financial Aid Transcript	4,100	1.0	4,100	0.250	1,025
Entrance Interview	282	17.5	4,935	0.420	2,073
Exit Interview	348	9.0	3,132	0.420	1,315
Notification of Repayment	348	9.0	3,132	0.270	846
Notification During Deferment	348	1.5	522	0.290	151
Notification of Delinquent Accounts	348	42.5	14,790	0.040	592
Credit Bureau Notification	348	709.0	246,732	0.006	1,480
Write-off of Uncollectable Loans	23	1.0	23	3.000	69
Disability Cancellation	16	1.0	16	1.000	16
Administrative Hearings	0	0.0	0	0.000	0
NSL Subtotal					7,567

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2024–03331 Filed 2–16–24; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Heart, Lung, and Blood Initial Review Group; NHLBI Mentored Transition to Independence Study Section.

Date: March 14–15, 2024.

Time: 9:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kazuyo Kegan, AB, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 208–S, Bethesda, MD 20892, (301) 435–0270, *kazuyo.kegan@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: February 14, 2024.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–03385 Filed 2–16–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed 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: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Diagnostic Centers of Excellence for the Undiagnosed Diseases Network.

Date: March 28–29, 2024.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Contact Person: Nilkantha Sen, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH/HHS, NSC, 6001 Executive Blvd., Rockville, MD 20852, 301–496–9223 *nilkantha.sen@nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; HEAL: Small molecule and biologics to treat pain.

Date: March 29, 2024.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Contact Person: W. Ernest Lyons, Ph.D., Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH/DHHS 6001 Executive Blvd., Rockville, MD 20852, 301–496–4056, *lyonse@ninds.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS.)

Dated: February 14, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–03381 Filed 2–16–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a

meeting of the Board of Scientific Counselors, NIDCD.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), title 5 U.S.C., as amended for the review, discussion, and evaluation of individual grant applications conducted by the National Institute On Deafness And Other Communication Disorders, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDCD.

Date: April 2, 2024.

Time: 4:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate staff reports on divisional, programmatical, and special activities.

Place: Porter Neuroscience Research Center, Building 35A, 35 Convent Drive, Bethesda, MD 20892.

Contact Person: Lisa L. Cunningham, Ph.D., Senior Investigator, National Institute on Deafness and Other Communication Disorders, National Institutes of Health, 35A Convent Drive, Rockville, MD 20850, (301) 443–2766, *lisa.cunningham@nih.gov.*

Information is also available on the Institute's/Center's home page: *https://www.nidcd.nih.gov/about/advisory-committees,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: February 14, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–03360 Filed 2–16–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; ADRD U 19 CENTER.

Date: March 6, 2024.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Contact Person: Natalia Strunnikova, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH/HHS, NSC, 6001 Executive Blvd., Rockville, MD 20852, 301–496–3755, *natalia.strunnikova@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS.)

Dated: February 14, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–03382 Filed 2–16–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; 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: National Heart, Lung, and Blood Institute Special Emphasis Panel; R13 Conference Grants.

Date: March 21, 2024.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kristin Goltry, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 209–B, Bethesda, MD 20892, (301) 435–0297, *goltrykl@mail.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Diabetes-Sleep and Cardiovascular Risk (R01/R34).

Date: March 21, 2024.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Zhihong Shan, Ph.D., MD, Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 205–J, Bethesda, MD 20892, (301) 827–7085, *zhihong.shan@nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; K38 Review Meeting.

Date: March 27, 2024.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kristen Page, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 209–B, Bethesda, MD 20892, (301) 827–7953, *kristen.page@nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Mentored Career Development K-Awards.

Date: March 28, 2024.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kristin Goltry, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 209–B, Bethesda, MD 20892, (301) 435–0297, *goltrykl@mail.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Catalyze Product Development.

Date: March 29, 2024.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kristin Goltry, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 209–B, Bethesda, MD 20892, (301) 435–0297, *goltrykl@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: February 14, 2024.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–03384 Filed 2–16–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Heart, Lung, and Blood Initial Review Group; Heart, Lung, and Blood Program Project Study Section.

Date: March 15, 2024.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Melissa H. Nagelin, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 208–R, Bethesda, MD 20892, (301) 827–7951, *nagelinmh2@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: February 14, 2024.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–03383 Filed 2–16–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2024–0044]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0085

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0085, Streamlined Inspection Program; without change.

Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before April 22, 2024.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2024–0044] to the Coast Guard using the Federal eRulemaking 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.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 3501 *et seq.,* chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology.

In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2024–0044], and must be received by April 22, 2024.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Information Collection Request

Title: Streamlined Inspection Program.

OMB Control Number: 1625–0085.

Summary: The Coast Guard established an optional Streamlined Inspection Program (SIP) to provide owners and operators of U.S. vessels an alternative method of complying with inspection requirements of the Coast Guard.

Need: The SIP regulations under 46 CFR part 8, subpart E, offer owners and operators of inspected vessels an alternative to traditional Coast Guard inspection procedures. Title 46 U.S.C. 3306 authorizes the Coast Guard to prescribe regulations necessary to carry out the inspections of vessels required to be inspected under 46 U.S.C. 3301, and 46 U.S.C. 3103 allows the Coast Guard to rely on reports, documents, and records of other persons who have been determined to be reliable, and other methods that have been determined to be reliable to ensure compliance with vessels and seamen requirements under 46 U.S.C. subtitle II.

Forms: None.

Respondents: Owners and operators of vessels.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has increased from 13,298 hours to 13,330 hours a year, due to an increase in the estimated annual number of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: February 8, 2024.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2024–03366 Filed 2–16–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2024–0045]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0127

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0127, Marine Transportation System Recovery; without change.

Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before April 22, 2024.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2024–0045] to the Coast Guard using the Federal eRulemaking 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.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), ATTN: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 3501 *et seq.,* chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology.

In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2024–0045], and must be received by April 22, 2024.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Information Collection Request

Title: Marine Transportation System Recovery.

OMB Control Number: 1625–0127.

Summary: This information collection captures data on facilities, vessels, and shared transportation infrastructure prior to a port disruption to be able to characterize the port in its normal fully functioning condition.

Need: 46 U.S.C. 70011, 70051 and 70103 require the U.S. Coast Guard to take action to prevent damage to, or the destruction of, bridges, other structures, on or in navigable waters or shore area adjacent; to minimize damage from and respond to a transportation security incident; and to safeguard against destruction of vessels, harbors, ports and waterfront facilities in the United States and all territorial waters during a national emergency. This information is needed to establish a Marine Transportation System (MTS) Essential Elements of Information baseline. Following a port disruption, Facility Status information is needed to determine the best course of action for port recovery.

Forms:

- CG–11410, Marine Transportation System Recovery Essential Elements of Information.
- CG–11410A, Marine Transportation System Recovery Facility Status.

Respondents: Owners or operators of vessels and U.S. waterfront facilities.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden remains 338 hours a year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: February 8, 2024.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2024–03359 Filed 2–16–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2023–0926]

National Offshore Safety Advisory Committee; Vacancies

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Notice; request for applications.

SUMMARY: The U.S. Coast Guard is accepting applications to fill three vacancies on the National Offshore Safety Advisory Committee (Committee). This Committee advises the Secretary of Homeland Security, via the Commandant of the U.S. Coast Guard on matters relating to activities directly involved with, or in support of, the exploration of offshore mineral and energy resources, to the extent that such matters are within the jurisdiction of the U.S. Coast Guard.

DATES: Completed applications must reach the U.S. Coast Guard on or before April 22, 2024.

ADDRESSES: Applications must include: (a) a cover letter expressing interest in an appointment to the National Offshore Safety Advisory Committee, (b) a resume detailing the applicant's relevant experience for the position applied for, and (c) a brief biography. Applications should be submitted via email with subject line ''NOSAC Vacancy Application'' to *Patrick.W.Clark@uscg.mil.*

FOR FURTHER INFORMATION CONTACT: Mr. Patrick Clark, Designated Federal Officer of the National Offshore Safety Advisory Committee; telephone 571–607–8236 or email at *Patrick.W.Clark@uscg.mil.*

SUPPLEMENTARY INFORMATION: The National Offshore Safety Advisory Committee is a Federal advisory committee. The Committee was established on December 4, 2018, by section 601 of the *Frank LoBiondo Coast Guard Authorization Act of 2018* (Pub. L. 115–282, 132 Stat. 4192), and amended by section 8331 of the *Elijah E. Cummings Coast Guard Authorization Act of 2020* (Pub. L. 116–283, 134 Stat. 4702) and is codified in 46 U.S.C. 15106. The Committee operates under the provisions of the *Federal Advisory Committee Act* (5 U.S.C. ch. 10) and 46 U.S.C. 15109. The Committee provides advice and recommendations to the Secretary of Homeland Security on matters relating to activities directly involved with, or in support of, the exploration of offshore mineral and energy resources, to the extent that such matters are within the jurisdiction of the U.S. Coast Guard.

The Committee is required to meet at least once a year in accordance with 46 U.S.C. 15109(a). We expect the Committee to meet at least twice a year, but it may meet more frequently. The meetings are generally held in Houston, Texas and New Orleans, Louisiana.

Under provisions in 46 U.S.C. 15109(f)(6), if you are appointed as a member of the Committee, your membership term will expire on December 31st of the third full year after the effective date of your appointment. The Secretary of Homeland Security may require an individual to have passed an appropriate security background examination before appointment to the Committee, 46 U.S.C. 15109(f)(4).

All members serve at their own expense and receive no salary or other compensation from the Federal Government. If you are appointed as a member of the Committee, you will be required to sign a Non-Disclosure Agreement and a Gratuitous Services Agreement.

In this solicitation for Committee Members, we will consider applications for the following three positions:

- One member representing entities engaged in offshore oil exploration and production on the Outer Continental Shelf adjacent to Alaska.
- One member representing entities engaged in offshore drilling (one of two positions in this category is open).
- One member representing entities engaged in the construction of offshore facilities on the U.S. Outer Continental Shelf.

The members who will fill the positions described above will be appointed to represent the interest of their respective groups and viewpoints and are not Special Government Employees as defined in 18 U.S.C. 202(a).

In order for the Department, to fully leverage broad-ranging experience and education, the National Offshore Safety Advisory Committee must be diverse with regard to professional and technical expertise. The Department is committed to pursuing opportunities, consistent with applicable law, to compose a committee that reflects the diversity of the Nation's people.

If you are interested in applying to become a member of the Committee, email your application to *Patrick.W.Clark@uscg.mil* as provided in the **ADDRESSES** section of this notice. Applications must include: (a) a cover letter expressing interest in an appointment to the National Offshore Safety Advisory Committee, (b) a resume detailing the applicant's relevant experience for the position applied for, and (c) a brief biography of the applicant by the deadline in the **DATES** section of this notice.

The U.S. Coast Guard will not consider incomplete or late applications.

Dated: February 13, 2024.

Jeffrey G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2024–03368 Filed 2–16–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6418–N–02]

Announcement of Funding Awards

AGENCY: Office of Chief Financial Officer, HUD.

ACTION: Notice.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in competitions for funding under the Notices of Funding Opportunity (NOFOs) and Notices for the following program(s): Authority to Accept Unsolicited Proposals for Research Partnerships, Impact Evaluation of the Emergency Rental Assistance (ERA), FY22 HUDRD CDBG Disaster Recovery Outcomes of Renter Households, FY22 HUDRD—Exploring the Feasibility of Linking Eviction Records to Administrative Databases for HUD's Housing Choice Voucher Program, FY21 Eviction Protection Grant Program Rounds 1 and 2, FY21 HBCU Research Center of Excellence, FY22 HUDRD–HBCU Research Center of Excellence, FY22 HUDRD—Wildfire Recovery and Resilience, FY22 HUDRD—Qualitative Data Collection for Cohort 2 MTW Expansion—Rent Reform Experiment, FY22 Indian Community Development Block Grant (ICDBG and FY22 Indian Community Development Block Grant (ICDBG)—Imminent Threat (IT), FY22 Foster Youth to Independence Competitive (FYI Competitive), FY22 Choice Neighborhoods Planning Grants, Housing Opportunities for Persons with HIV/AIDS (HOPWA), Rural Capacity Building for Community Development and Affordable Housing Grants, Veterans Housing Rehabilitation and Modification Pilot Program, and FY 2022 Comprehensive Housing Counseling Grant Program.

FOR ADDITIONAL INFORMATION CONTACT: Dorthera Yorkshire, Director, Grants Management and Oversight, Office of the Chief Financial Officer (Systems), telephone (202) 402–4336; (this is not a toll-free number) email; *AskGMO@hud.gov or the contact person listed in each appendix.* 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: HUD posted the Authority to Accept Unsolicited Proposals for Research Partnerships NOTICE on *grants.gov* November 2, 2021, (FR–6500–N–USP). The notice closed on June 30, 2022. HUD rated and selected for funding based on selection criteria contained in the NOTICE. This notice awarded $2,212,251 to 7 recipients to allow greater flexibility in addressing evidence gaps concerning strategic policy questions and to better utilize external expertise in evaluating effectiveness of programs affecting residents of urban, suburban, rural, and tribal areas, as well as local innovations in the delivery of these programs.

HUD posted the Impact Evaluation of the Emergency Rental Assistance (ERA) Program NOFO on *grants.gov* May 26, 2022, (FR–6600–N–83). The competition closed on August 25, 2022. HUD rated and selected for funding based on selection criteria contained in the NOFO. This competition awarded $2,000,000 to 3 recipients to fund rigorous evaluations of the impact of the Emergency Rental Assistance (ERA) Program on housing stability outcomes. HUD's primary outcome of interest is eviction, but applicants can propose other housing stability measures. Congress established the ERA program to provide emergency assistance for rental, utility, and other related expenses to households at risk of losing their rental units due to the COVID–19 pandemic.

HUD posted the Authority to FY22 HUDRD CDBG Disaster Recovery Outcomes of Renter Households NOFO on *grants.gov* May 27, 2022 (FR–6600–N–29A). The competition closed on July 11, 2022. HUD rated and selected for funding based on selection criteria contained in the NOFO. This competition awarded $1,370,000 to 2 recipients to improve disaster recovery effectiveness for renter households by examining the disaster recovery outcomes of renter households and rental housing stock in places that received Community Development Block Grant-Disaster Recovery grants (CDBG–DR).

HUD posted the Authority to FY22 HUDRD-Exploring the Feasibility of Linking Eviction Records to Administrative Databases for HUD's Housing Choice Voucher Program NOFO on *grants.gov* May 25, 2022, (FR–6600–N–29E). The competition closed on July 14, 2022. HUD rated and selected for funding based on selection criteria contained in the NOFO. This competition awarded $500,000 to 2 recipients to link data on court-ordered evictions to HUD administrative data on tenants in the HCV program collected in the form HUD–50058.[13] Quantifying the incidence of evictions among households receiving and/or previously receiving assistance from the HCV program.

HUD posted the FY21 Eviction Protection Grant Program Rounds 1 and 2 NOFO on *grants.gov* July 20, 2021, (FR–6500–N–79). The competition closed on September 10, 2021. HUD rated and selected for funding based on selection criteria contained in the NOFO. This competition awarded $40,000,000 (Round 1; $20,000,000 and round 2; $20,000,000) to 21 (Round 1; 10 and Round 2; 11) recipients to support experienced legal service providers, not limited to legal service corporations, in providing legal assistance at no cost to low-income tenants at risk of or subject to eviction. HUD's Office of Policy Development and Research is making available grant funds to non-profit or governmental entities to provide services in areas with high rates of evictions or prospective evictions, including rural areas.

HUD posted the FY21 HBCU Research Center of Excellence NOFO on *grants.gov* April 29, 2021, (FR–6400–N–61). The competition closed on July 29, 2021. HUD rated and selected for funding based on selection criteria contained in the NOFO. This competition awarded $5,500,000 to 2 recipients to conduct research projects on multiple topics of strategic interest to the Department of Housing and Urban Development enabling the establishment of one, or up to two Historically Black College and Universities Center(s) of Excellence to (COE). The research projects are intended to initiate an ongoing series of reports focused on housing, community, and economic development in underserved communities that can serve as national, local, or regional benchmarks and assist in support of COE(s) that expand the housing and community development research efforts at Historically Black Colleges and Universities (HBCU).

HUD posted the FY22 HUDRD—HBCU Research Center of Excellence NOFO on *grants.gov* August 29, 2022, (FR–6600–N–29F). The competition closed on December 22, 2022. HUD rated and selected for funding based on selection criteria contained in the NOFO. This competition awarded $5,500,000 to 2 recipients to conduct research projects on multiple topics of strategic interest to the Department of Housing and Urban Development and provide additional funding to a COE that received partial funding under the previous COE NOFO.

HUD posted the FY22 HUDRD—Wildfire Recovery and Resilience NOFO on *grants.gov* May 18, 2022, (FR–6600–N–29B). The competition closed on July 19,2022. HUD rated and selected for funding based on selection criteria contained in the NOFO. This competition awarded $597,154 to 1 recipient to increase the capacity of communities affected by wildfire to use disaster assistance to enhance resilience to wildfire, especially the resilience of low- and moderate-income persons and communities.

HUD posted the FY22 HUDRD—Qualitative Data Collection for Cohort 2 MTW Expansion-Rent Reform Experiment NOFO on *grants.gov* May 24, 2022, (FR–6600–N–29D). The competition closed on July 7, 2022. HUD rated and selected for funding based on selection criteria contained in the NOFO. This competition awarded $998,828 to 1 recipient to support qualitative research focused on the Moving to Work (MTW) Stepped and Tiered Rent Demonstration (STRD). In the Stepped and Tiered Rent Demonstration (STRD), ten public housing agencies (PHAs) will implement alternative rents that might be easier to administer and might incentivize assisted households to increase their earnings.

HUD posted FY22 Indian Community Development Block Grant (ICDBG) and FY22 Indian Community Development Block Grant (ICDBG)—Imminent Threat (IT) Program on *grants.gov* July 29, 2022 (FR–6600–N–23). The competition closed October 24, 2022, and the FY22 Indian Community Development Block Grant (ICDBG)—Imminent Threat (IT) Program was awarded based on a first come first serve basis. HUD rated and selected for funding based on selection criteria contained in the NOFO. The FY22 Indian Community Development Block Grant (ICDBG) competition awarded $95,565,820 to 55 recipients to develop viable Indian and Alaska Native communities, including the creation of decent housing, suitable living environments, and economic opportunities primarily for persons with low- and moderate-incomes and The FY22 Indian Community Development Block Grant (ICDBG)—Imminent Threat (IT) competition awarded $2,250,000 to 3 recipients to provide grants to Indian tribes and Alaska Native villages for community development projects.

HUD posted the FY22 Foster Youth to Independence Competitive (FYI Competitive) NOFO on *grants.gov* June 06, 2022, (FR–6600–N–41). The competition closed on August 09, 2022. HUD rated and selected for funding based on selection criteria contained in the Notice. This competition awarded $12,934,503 to 16 recipients to Housing Choice Voucher (HCV) assistance available to Public Housing Agencies (PHAs) in partnership with Public Child Welfare Agencies (PCWAs).

HUD posted the FY22 Choice Neighborhoods Planning Grants NOFO on *grants.gov* May 10, 2022, (FR–6600–N–38). The competition closed on July 28, 2022. HUD rated and selected for funding based on selection criteria contained in the NOFO. This competition awarded $4,409,000 to 9 recipients to focuses on the redevelopment of severely distressed public housing and HUD-assisted housing. Planning Grants support the development of comprehensive neighborhood revitalization plans which focused on directing resources to address three core goals: Housing, People and Neighborhood. To achieve these core goals, communities must develop and implement a comprehensive neighborhood revitalization strategy, or Transformation Plan. The Transformation Plan will become the guiding document for the revitalization of the public and/or assisted housing units while simultaneously directing the transformation of the surrounding neighborhood and positive outcomes for families.

HUD posted the FY2022 Housing Opportunities for Persons with HIV/AIDS (HOPWA) Notice on *grants.gov* June 13, 2022, (CPD–22–08). The competition closed on August 01, 2022. HUD rated and selected for funding based on selection criteria contained in the NOTICE. This competition awarded $780,095 to 1 recipient to provide permanent supportive housing (PSH) as the primary grant activity to HOPWA-eligible clients. For the purposes of the Notice, ''permanent housing'' means housing in which the eligible person has a continuous legal right to remain in the unit established by a lease or legally binding occupancy agreement.

HUD posted the FY2021 and 2022 Rural Capacity Building for Community Development and Affordable Housing NOFO on *grants.gov* August 10, 2022, (FR–6600–N–08). The competition closed on October 18, 2022. HUD rated and selected for funding based on selection criteria contained in the NOFO. This competition awarded $10,000,000 to 5 recipients to carry out affordable housing and community development activities in rural areas for the benefit of low- and moderate-income families and persons. The Rural Capacity Building program achieves this by funding National Organizations with expertise in rural housing and rural community development who work directly to build the capacity of eligible beneficiaries.

HUD posted the FY2022 Veterans Housing Rehabilitation and Modification Pilot Program NOFO on *grants.gov* July 12, 2022, (FR–6600–N–39). The competition closed on August 24, 2022. HUD rated and selected for funding based on selection criteria contained in the NOFO. This competition awarded $5,000,000 to 5 recipients to provide nationwide or statewide programs which primarily serve low-income veterans living with disabilities who need adaptive housing to help them regain or maintain their independence. Through the VHRMP program, grantees will make necessary physical modifications to address the adaptive housing needs of eligible veterans, including wheelchair ramps, widening exterior and interior doors, reconfiguring, and reequipping bathrooms, or adding a bedroom or bathroom for the veteran.

HUD posted FY2022 Supplemental Comprehensive Housing Counseling (CHC) Grant Notice of Funding Opportunity (NOFO) on *grants.gov* on February 10, 2023 (FR–6600–N–33). The competition closed on March 13, 2023. HUD rated and selected grantees for funding based on selection criteria contained in the NOFO. HUD awarded 12 new grantees under the Supplemental CHC NOFO. FY2022 funding was also provided to 174 grantees under HUD's two-year FY2021 NOFO for the CHC Grant Program. In total, $53,068,044.88 was awarded to 186 recipients. These grants will support quality housing counseling services to help individuals and families to avoid eviction or foreclosure or to make more informed homebuying and rental choices. Included in the award amount is $3 million for housing counseling program grantees that are partnering with Minority Serving Institutions to expand housing services and counseling into underserved communities.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545(a)(4)(C)), the Department is publishing the awardees and the amounts of the awards in Appendices A thru Q of this document.

Dorthera Yorkshire,

Director, Grants Management and Oversight, Office of the Chief Financial Officer.

Appendix A

Authority To Accept Unsolicited Proposals for Research Partnerships (FR–6500–N–USP)

Contact: Carol Gilliam (202) 402–4354

Organization name	Street address or P.O. Box	City	State	Zip code	Amount
Texas A&M Engineering Experiment Station.	400 Harvey Mitchell Parkway South, Suite 300.	College Station	Texas	77845	$357,246
Habitat for Humanity International.	285 Peach Tree Center Avenue NE Suite #2700.	Atlanta	Georgia	30303–1229	158,089
National Institute of Building Sciences.	1090 Vermont Avenue NW, Suite 700.	Washington	District of Columbia	20005–4950	431,748
New York University Furman Center.	139 MacDougal Street, 2nd Floor.	New York	New York	10012	700,000
Cornell University	373 Pine Tree Road	Ithaca	New York	14850–2820	350,000
Virginia Polytechnic Institute and State University.	North End Center, Suite 4200–300 Turner Street, NW.	Blacksburg	Virginia	24061–0001	65,277
The German Marshall Fund	1744 R Street NW	Washington	District of Columbia	20009	149,891
Total					2,212,251

Appendix B

FY22 Impact Evaluation of the Emergency Rental Assistance (ERA) (FR–6600–N–83)

Contact: Carol Gilliam (202) 402–4354

Organization name	Street address or P.O. Box	City	State	Zip code	Amount
Trustee of the University of Pennsylvania.	3451 Walnut Street, 5th Floor	Philadelphia	PA: Pennsylvania	19104–6205	$671,356
The Trustees of Princeton University.	P.O. Box 0036–619 Alexander Road—Ste 102.	Princeton	NJ: New Jersey	08540–6000	499,949
Abt Associates	6130 Executive Blvd	Rockville	MD: Maryland	20852–4907	828,695
Total					2,000,000

Appendix C

FY22 HUDRD CDBG Disaster Recovery Outcomes of Renter Households (FR–6700–N–29A)

Contact: Carol Gilliam (202) 402–4354

Organization name	Street address or P.O. Box	City	State	Zip code	Amount
The Urban Institute	500 L Enfant Plaza	Washington	DC: District of Columbia	20024–2774	$669,607
Horne LLP	1215 19th Street Northwest	Washington	DC: District of Columbia	20036–2401	700,393
Total					$1,370,000

Appendix D

FY22 HUDRD—Exploring the Feasibility of Linking Eviction Records to Administrative Databases for HUD's Housing Choice Voucher Program (FR–6600–N–29E)

Contact: Carol Gilliam (202) 402–4354

Organization name	Street address or P.O. Box	City	State	Zip code	Amount
The Urban Institute	500 L Enfant Plaza	Washington	DC: District of Columbia	20024–2774	$250,000
New York University	50 West 4th Street	New York	NY: New York	20012	250,000
Total					500,000

Appendix E

Round 1

FY21 Eviction Protection Grant Program Rounds 1 and 2 (FR–6500–N–79)

Contact: Carol Gilliam (202) 402–4354

Organization name	Street address or P.O. Box	City	State	Zip code	Amount
Jacksonville Area Legal Aid, Inc.	126 West Adams Street	Jacksonville	FL: Florida	32202–3849	$2,400,000
Legal Aid Society of Northeastern New York.	95 Central Avenue	Albany	NY: New York	12206–3001	2,400,000
Advocates For Basic Legal Equality.	525 Jefferson Ave, #300	Toledo	OH: Ohio	43604–1094	1,000,000
Connecticut Fair Housing Center.	60 Popieluszko Court	Hartford	CT: Connecticut	06106–5112	2,400,000
Legal Services of Eastern Missouri.	4232 Forest Park Avenue	St. Louis	MO: Missouri	63108–2811	2,400,000
Community Legal Aid, Inc	405 Main St	Worchester	MA: Massachusetts	01608–1725	2,400,000
Idaho Legal Aid Services	1447 S Tyrell Lane	Boise	ID: Idaho	83706–4044	1,800,000
Atlanta Volunteer Lawyers Foundation.	235 Peachtree Street, Suite 1750.	Atlanta	GA: Georgia	30303–1416	1,800,000.00
Legal Assistance of Western New York, Inc.	361 South Main Street	Geneva	NY: New York	14456–2654	2,400,000.00
Legal Aid Center of Southern Nevada.	725 E Charleston Boulevard	Las Vegas	NV: Nevada	89104–1510	1,000,000.00
Total					20,000,000.00

Round 2

Organization name	Street address or P.O. Box	City	State	Zip code	Amount
Jacksonville Area Legal Aid, Inc.	126 West Adams Street	Jacksonville	FL: Florida	32202–3849	$2,400,000
Legal Aid Society of Northeastern New York.	95 Central Avenue	Albany	New York	12206–3001	2,400,000
Advocates For Basic Legal Equality.	525 Jefferson Ave, #300	Toledo	OH: Ohio	43604–1094	1,000,000
Connecticut Fair Housing Center.	60 Popieluszko Court	Hartford	Connecticut	06106–5112	2,400,000
Legal Services of Eastern Missouri.	4232 Forest Park Avenue	St. Louis	Missouri	63108–2811	2,400,000
Community Legal Aid, Inc	405 Main St	Worchester	Massachusetts	01608–1725	2,400,000
Idaho Legal Aid Services	1447 S Tyrell Lane	Boise	Idaho	83706–4044	1,800,000
Atlanta Volunteer Lawyers Foundation.	235 Peachtree Street, Suite 1750.	Atlanta	Georgia	30303–1416	1,800,000.00
Legal Assistance of Western New York, Inc.	361 South Main Street	Geneva	New York	14456–2654	2,400,000.00
Legal Aid Center of Southern Nevada.	725 E Charleston boulevard	Las Vegas	Nevada	89104–1510	1,000,000.00
Total					20,000,000.00

Appendix F

FY21 HBCU Research Center of Excellence (FR–6400–N–61)

Contact: Carol Gilliam (202) 402–4354

Organization name	Street address or P.O. Box	City	State	Zip code	Amount
Howard University	2400 Sixth Street NW	Washington	District of Columbia	20059–0002	$4,500,000
Texas Southern University	3100 Cleburne Street	Houston	Texas	77004–1391	1,000,000.00
Total					5,500,000

Appendix G

FY22 HUDRD—HBCU Research Center of Excellence (FR–6600–N–29F)

Contact: Carol Gilliam (202) 402–4354

Organization name	Street address or P.O. Box	City	State	Zip code	Amount
Texas Southern University	3100 Cleburne Street	Houston	Texas	77004–4501	$3,000,000
North Carolina Agricultural and Technical State University.	1601 E Market Street	Greensboro	North Carolina	274111–0001	2,500,000
Total					5,500,000

Appendix H

FY22 HUDRD Wildfire Recovery and Resilience (FR–6600–N–29B)

Contact: Carol Gilliam (202) 402–4354

Organization name	Street address or P.O. Box	City	State	Zip code	Amount
The Regents of the University of California, Merced.	5200 North Lake Road	Merced	California	95343–5001	$597,154
Total					597,154.00

Appendix I

FY22 HUDRD—Qualitative Data Collection for Cohort 2 MTW Expansion—Rent Reform Experiment (FR–6700–N–29D)

Contact: Carol Gilliam (202) 402–4354

Organization name	Street address or P.O. Box	City	State	Zip code	Amount
Abt Associates	6130 Executive Blvd	Rockville	Maryland	4907	$998,828
Total					998,828

Appendix J

FY2022 Indian Community Development Block Grant: ICDBG Program (FR–6600–N–23)

Contact: Hilary Atkin, 202–402–3427

Organization name	Address or P.O. Box	City	State	Zip code	Award amount
Central Council of the Tlingit and Haida Indian Tribes.	9097 Glacier Highway	Juneau	AK	99801–6922	$2,000,000
Craig Tribal Association	P.O. Box 828	Craig	AK	99921	2,000,000
Douglas Indian Association	811 W 12th Street	Juneau	AK	99801	2,000,000
Gulkana Village Council	P.O. Box 254	Gakona	AK	99586	2,000,000
Kokhanok Village	P.O. Box 1007	Kokhanok	AK	99606	2,000,000
Petersburg Indian Association	P.O. Box 1418	Petersburg	AK	99883	2,000,000
Wrangell Cooperative Association	P.O. Box 2331	Wrangell	AK	99929	1,000,000
Sault Ste Marie Housing Authority	154 Parkside Drive	Kincheloe	MI	49788	1,397,500
Bois Forte Band of the Minnesota Chippewa Tribe.	5344 Lakeshore Drive	Nett Lake	MN	55772	2,000,000
Mi'kmaq Nation Aroostook Band of Micmacs.	#7 Northern Road	Presque Isle	ME	04769	1,950,000
Mississippi Band of Choctaw Indians	P.O. Box 6010, 101 Industrial Rd	Choctaw	MS	39350	688,559
Chickahominy Indian Tribe	8200 Lott Cary Road	Providence Forge	VA	23140	2,000,000
Chippewa Cree Tribe of the Rocky Boy Reservation.	P.O. Box 544	Box Elder	MT	59521–0544	2,000,000
Fort Belknap Housing Authority	668 Agency Main Street	Harlem	MT	59526–9455	1,189,005
Fort Peck Housing Authority	P.O. Box 667	Poplar	MT	59255–0677	2,000,000
Northern Cheyenne Housing Authority	P.O. Box 327	Lame Deer	MT	59043–0327	2,000,000
Salish & Kootenai Housing Authority	P.O. Box 38	Pablo	MT	59855–0038	1,280,000
Crow Creek Housing Authority	P.O. Box 19	Fort Thompson	SD	57339–0019	2,000,000
Oglala Sioux (Lakota) Housing Authority.	P.O. Box 603	Pine Ridge	SD	57770–0603	2,000,000
Utah Paiute Housing Authority	565 North 100 East	Cedar City	UT	84721	2,000,000
Tohono O'odham—KIKI Association	P.O. Box 790	Sells	AZ	85634–0790	3,760,000
White Mountain Apache Housing Authority.	50 West Chinatown Street, P.O. Box 1270.	Whiteriver	AZ	85941–1270	4,000,000
Big Valley Tribe of Pomo Indians	2726 Mission Rancheria Road	Lakeport	CA	95453	1,823,899
Cahto Tribe of the Laytonville Rancheria.	P.O. Box 1239	Laytonville	CA	95454–1239	1,232,831

Organization name	Address or P.O. Box	City	State	Zip code	Award amount
AMIHA for Cahuilla Band of Indians	P.O. Box 391760	Anza	CA	92539	875,000
Dry Creek Rancheria Band of Pomo Indians.	P.O. Box 607	Geyserville	CA	95441–0607	2,000,000
AMIHA for La Jolla Band of Mission Indians.	22000 Highway 76	Pauma Valley	CA	92061	1,125,000
La Posta Band of Mission Indians	8 Crestwood Road, Box 1	Boulevard	CA	91905	1,656,709
North Fork Rancheria of Mono Indians.	P.O. Box 929	North Fork	CA	93643–0929	2,000,000
Northern Circle Indian Housing Authority for Mooretown Rancheria.	694 Pinoleville Drive	Ukiah	CA	95482	2,000,000
San Pasqual Band of Mission Indians	P.O. Box 365	Valley Center	CA	92082	969,241
AMIHA for Santa Rosa Band of Cahuilla Indians.	P.O. Box 391820	Anza	CA	92539–1820	910,000
AMIHA for Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California.	P.O. Box 517	Santa Ynez	CA	93460–0517	930,000
Stewarts Point Rancheria—Kashia Band of Pomo.	1420 Guerneville Road, Suite 1	Santa Rosa	CA	95403	1,400,000
AMIHA for Torres-Martinez Band of Cahuilla Indians.	P.O. Box 1160	Thermal	CA	92274–1160	725,000
Nambe Pueblo Housing Entity	11 West Gutierrez, Box 3456	Santa Fe	NM	87506	975,236
Ohkay Owingeh Housing Authority	P.O. Box 1059	Ohkay Owingeh	NM	87566–1059	2,000,000
Pueblo of Taos	P.O. Box 1846	Taos	NM	87571–1846	2,000,000
San Felipe Pueblo Housing Authority	P.O. Box 4222	San Felipe Pueblo	NM	87001–4222	1,965,000
Winnemucca Indian Colony	433 West Plumb Lane	Reno	NV	89509	1,969,980
Prairie Band of Potawatomi Nation	16281 Q Road	Mayetta	KS	66509	2,000,000
Cheyenne-Arapaho Tribes	P.O. Box 167, 100 Red Moon Circle	Concho	OK	73022	2,000,000
Chickasaw Nation	P.O. Box 1548, 520 E Arlington	Ada	OK	74821	2,000,000
Choctaw Nation	P.O. Box 1210	Durant	OK	74702	2,000,000
Citizen Potawatomi Nation	1601 South Gordon Cooper Drive	Shawnee	OK	74801	2,000,000
Comanche Nation Housing Authority	1918 East Gore Blvd	Lawton	OK	73501	2,000,000
Kaw Nation Housing Authority	P.O. Box 371	Newkirk	OK	74647	1,000,000
Modoc Nation	22 N Eight Tribes Trail	Miami	OK	74354	2,000,000
Ottawa Tribe	P.O. Box 110	Miami	OK	74355	2,000,000
Peoria Tribe of Indians of Oklahoma Housing Authority.	3606 Sencay Avenue	Miami	OK	74354	1,154,000
Quapaw Nation	P.O. Box 765, 5682 South 630 Road	Quapaw	OK	74363–0765	2,000,000
Seminole Nation Housing Authority	P.O. Box 1493, 101 S Hitchite Avenue.	Wewoka	OK	74884	678,064
Burns Paiute Tribe	100 Pasigo Street	Burns	OR	97720–2442	910,796
Warm Springs Housing Authority	P.O. Box 1167	Warm Springs	OR	97761–1167	2,000,000
Spokane Tribe of Indians	P.O. Box 100	Wellpinit	WA	99040–0100	2,000,000
Total					95,565,820

Appendix K

FY2022 Indian Community Development Block Grant: Imminent Threat (FR–6600–N–23)

Contact: Hilary Atkin, 202–402–3427

Organization name	Address or P.O. Box	City	State	Zip code	Award amount
North Fork Rancheria of Mono Indians of California.	P.O. Box 929	North Fork	CA	93643	$450,000
Chinik Eskimo Community	P.O. Box 62099	Golovin	AK	99762	900,000
Newtok Village Council	P.O. Box 5549	Newtok	AK	99559	900,000
Total					2,250,000

Appendix L

FY22 Foster Youth to Independence Competitive (FYI Competitive) (FR–6600–N–41)

Contact: Michelle Daniels, (202) 402–6051 and Ryan Jones (202) 402–2677

Organization name	Street address or P.O. Box	City	State	Zip code	Award amount
Los Angeles County Development Authority.	700 W Main St	Alhambra	CA	91801	$1,197,425.00
County of Sacramento Housing Authority.	801 12th Street	Sacramento	CA	95814	1,188,671.00

Organization name	Street address or P.O. Box	City	State	Zip code	Award amount
Housing Authority of the County of Santa Barbara.	815 W Ocean Avenue	Lompoc	CA	93436	1,188,636.00
Housing Authority of the City of San Jose.	505 West Julian St	San Jose	CA	95110	1,195,651.00
County of Sonoma	1440 Guerneville Road	Santa Rosa	CA	95403	441,242.00
West Palm Beach Housing Authority	3700 Georgia Avenue	West Palm Beach	FL	33405	415,788.00
Chicago Housing Authority	60 E Van Buren St	Chicago	IL	60605	1,064,718.00
Housing Authority Cook County	175 W Jackson Ste 350	Chicago	IL	60604	889,884.00
Housing Authority of the Village of Oak Park.	21 South Boulevard	Oak Park	IL	60302	163,310.00
Housing Authority of Kansas City, Missouri.	3822 Summit Street	Kansas City	MO	64111	672,572.00
Housing Authority of Portland	135 SW Ash Street	Portland	OR	97204	997,110.00
Philadelphia Housing Authority	2013 Ridge Avenue	Philadelphia	PA	19121	630,977.00
Weber Housing Authority	237 26th Street, Suite 224	Ogden	UT	84401	283,875.00
Charlottesville Redev & Housing Authority.	500 S 1st Street	Charlottesville	VA	22902	216,555.00
Seattle Housing Authority	190 Queen Anne Ave N P.O. Box 19028.	Seattle	WA	98109	1,197,307.00
Housing Authority of King County	600 Andover Park West	Seattle	WA	98188	1,190,782.00
Total					12,934,503.00

Appendix M

FY 2022 Choice Neighborhoods Planning Grants (FR–6600–N–38)

Contact: Luci Blackburn (202) 402–4190

Organization name	Address or P.O. Box	City	ST	ZIP	Award amount
City of Steubenville, OH	115 South Third Street	Steubenville	OH	43952	$500,000
City of Salem, New Jersey	17 New Market Street	Salem	NJ	08079	500,000
District of Columbia Housing Authority.	1133 North Capitol Street, NE	Washington	DC	20002	500,000
Flint Housing Commission	3820 Richfield Rd	Flint	MI	48506	500,000
Fort Wayne Housing Authority	7315 S Hanna Street	Fort Wayne	IN	46816	500,000
Harrisburg Housing Authority	351 Chestnut St	Harrisburg	PA	17101	500,000
Housing Authority of the City of Goldsboro.	700 N Jefferson Ave	Goldsboro	NC	27530	500,000
Lorain Metropolitan Housing Authority.	1600 Kansas Ave	Lorain	OH	44052	500,000
Housing Authority of New Orleans.	4100 Touro Street	New Orleans	LA	70122	409,000
Total					4,409,000

Appendix N

FY2022 Housing Opportunities for Persons With AIDS (HOPWA) Notice (CPD–22–08)

Contact: Vanessa Larkin, *Vanessa.T.Larkin@hud.gov,* 202–402–2633

Organization name	Address or P.O. Box	City	State	Zip	Award amount
Conexio Care, Inc	590 Naamans Road	Claymont	DE	19703–2308	$780,095.00
Total					780,095.00

Appendix O

FY 2021 and 2022 Rural Capacity Building for Community Development and Affordable Housing Grants (FR–6600–N–08)

Contact: Anupama Abhyankar 202–402–3981.

Organization name	Address or P.O. Box	City	State	Zip code	Award amount
Housing Assistance Council	1025 Vermont Ave. NW	Washington	DC	20005	$2,325,000
Minnesota Housing Partnership	2446 University Avenue West, Suite 106.	Saint Paul	MN	55114	1,700,000
National Association for Latino Community Asset Builders.	5404 Wurzbach Road	San Antonio	TX	78238	1,850,000
Rebuilding Together	999 N Capitol Street NE	Washington	DC	20002	1,800,000
Rural Community Assistance Corporation.	3120 Freeboard Drive	Sacramento	CA	95691	2,325,000
Total					10,000,000

Appendix P

Veterans Housing Rehabilitation and Modification Pilot Program (FR–6600–N–39)

Contact: Jovette G. Bryant, 877–787–2526.

Organization name	Address or P.O. Box	City	State	Zip code	Award amount
Habitat for Humanity International, Inc	322 West Lamar Street	Americus	GA	31709	$1,000,000
Habitat for Humanity Michigan	618 South Creyts Road, Suite A	Lansing	MI	48917	1,000,000
Coalition for Home Repair	113 Heritage Place Drive	Jonesborough	TN	37659	1,000,000
Family and Community Services, Inc	705 Oakwood Street	Ravenna	OH	44266	1,000,000
Rebuilding Together, Inc	999 North Capitol Street NE, Suite 701.	Washington	DC	20002	1,000,000
Total					5,000,000

Appendix Q

FY22 Comprehensive Housing Counseling Grant Program (FR–6600–N–33)

Contact: Melissa Noe, 312–913–8468.

Organization name	Address or P.O. Box	City	State	Zip code	Award amount
Rural Alaska Community Action Program, Inc	731 East 8th Avenue	Anchorage	AK	99501	$13,790.00
Community Action Agency of Northwest Alabama, Inc.	745 Thompson St	Florence	AL	35630–3867	41,485.00
Community Action Partnership of North Alabama, Inc.	1909 Central Pkwy. SW	Decatur	AL	35601–6822	29,558.00
Community Service Programs of West Alabama, Inc.	601 Black Bears Way	Tuscaloosa	AL	35401–4807	45,572.00
Housing Authority of The City of Prichard	200 W Prichard Avenue	Prichard	AL	36610	31,234.00
United Way of Central Alabama, Inc	P.O. Box 320189	Birmingham	AL	35222–3250	617,662.00
In Affordable Housing Inc	3224 Shackleford Pass	Littlerock	AR	72205	17,437.00
Northwest Regional Housing Authority	317 Industrial Park Road	Harrison	AR	72602	22,659.00
Southern Bancorp Community Partners	400 Hardin Road, Suite 100	Little Rock	AR	72211–3501	38,529.00
Universal Housing Development Corporation	301 E 3rd Street	Russellville	AR	72801–5109	30,544.00
Newtown Community Development Corporation	2106 E Apache Blvd	Tempe	AZ	85281–7086	31,234.00
Balance	1655 Grant Street	Concord	CA	94520–2600	756,950.00
Credit.Org	1450 Iowa Ave., Ste 200	Riverside	CA	92507–0508	356,926.00
Fair Housing Advocates of Northern California	1314 Lincoln Ave	San Rafael	CA	94901–2105	33,798.00
Fair Housing Council of Riverside County Inc	4164 Brockton Ave	Riverside	CA	92501–3400	52,722.00
Habitat for Humanity of Greater Los Angeles	8739 Artesia Blvd	Bellflower	CA	90706–6330	44,737.00
National Association of Real Estate Brokers-Investment Division, Inc.	7677 Oakport Street, Suite 1030	Oakland	CA	94621–1929	2,247,847.50
Project Sentinel, Inc	554 Valley Way	Milpitas	CA	95035–4106	97,478.00
Rural Community Assistance Corporation	3120 Freeboard Drive	West Sacramento	CA	95691–5039	822,447.00
San Francisco Housing Development Corporation.	4439 3rd St	San Francisco	CA	94124–2103	48,089.00
Vacaville, City of	40 Eldridge Ave., Ste. 2	Vacaville	CA	95688–6824	20,394.00
Colorado Housing and Finance Authority	1981 Blake St	Denver	CO	80202–1229	648,871.00
Oweesta Corporation	2432 Main St., 1st Floor	Longmont	CO	80501–1101	198,270.00
Community Renewal Team, Inc	555 Windsor St	Hartford	CT	06120–2901	27,587.00
Connecticut Housing Finance Authority	999 West Street	Rocky Hill	CT	06067–3011	221,565.00
Housing Counseling Services Inc	2410 17th St. NW, Ste. 100	Washington	DC	20009–2724	191,081.88
National CAPACD	1628 16th Street NW	Washington, DC	DC	20009–3064	504,029.00
National Community Reinvestment Coalition, Inc	740 15th St. NW	Washington	DC	20005–1019	1,168,913.00
National Foundation for Credit Counseling, Inc	2033 K St. NW	Washington	DC	20006–1002	743,807.00
Neighborhood Reinvestment Corp. DBA Neighborworks America.	999 North Capital Street NE	Washington	DC	20002–4684	3,000,000.00
Unidos US	1126 16th Street NW, Suite 600	Washington	DC	20036–4845	2,807,560.00
Adopt a Hurricane Family, Inc	4700 SW 64th Avenue—Suite C	Davie	FL	33314–4433	10,833.00

Organization name	Address or P.O. Box	City	State	Zip code	Award amount
Affordable Homeownership Foundation, Inc	5264 Clayton Ct., Suite 1	Fort Myers	FL	33907–2112	77,833.00
Community Equity Investments, Inc	302 North Barcelona St	Pensacola	FL	32501–4806	27,587.00
Community Housing Initiative, Inc	3033 College Wood Dr	Melbourne	FL	32934–8324	34,882.00
Consolidated Credit Solutions, Inc	5701 W Sunrise Blvd	Plantation	FL	33313–6269	104,060.00
Credit Card Mgmt Svcs, Inc DBA *ReverseMortgageHelper.Org* and *Debthelper.Com*.	1325 N Congress Ave	West Palm Beach	FL	33401–2005	215,335.00
Housing Foundation of America	2400 N University Dr., Ste. 200	Pembroke Pines	FL	33024–3629	122,583.00
Jacksonville Area Legal Aid	126 W Adams St	Jacksonville	FL	32202–3849	34,065.00
Lee County Housing Development Corporation	P.O. Box 2854	Ft. Myers	FL	33901–8226	32,220.00
Mid-Florida Housing Partnership, Inc	1834 Mason Avenue	Daytona Beach	FL	32117–5101	24,630.00
Ocala Housing Authority	P.O. Box 2468	Ocala	FL	34478	63,676.00
Opa-Locka Community Development Corporation, Inc.	490 OPA Locka Blvd	OPA Locka	FL	33054–3563	33,205.00
St. Johns, County of	200 San Sebastian WV, Ste. 2300.	St Augustine	FL	32084–8695	33,500.00
Step up Suncoast, Inc	6428 Parkland Dr	Sarasota	FL	34243–4038	25,196.00
The Tallahassee Urban League Incorporated	923 Old Bainbridge Rd	Tallahassee	FL	32303–6042	74,482.00
Tampa Bay Community Development Corporation.	2139 NE Coachman Rd	Clearwater	FL	33765–2612	37,838.00
Tampa, City of	306 E Jackson St	Tampa	FL	33602–5208	28,674.00
University of Florida	1024 McCarty Hall	Gainesville	FL	32611–0001	92,037.00
West Palm Beach Housing Authority	3700 Georgia Avenue	West Palm Beach	FL	33405	31,080.00
Albany, City of	230 S Jackson St., Ste. 315	Albany	GA	31701–2872	22,674.00
Appalachian Housing and Redevelopment Corporation.	P.O. Box 1428	Rome	GA	30165–2714	25,616.00
Georgia Housing and Finance Authority	60 Executive Park South, NE	Atlanta	GA	30329–2296	1,233,672.00
Operation of Hope, Inc	191 Peachtree St NE, Suite 3840.	Atlanta	GA	30303–1740	417,550.00
Refugee Family Assistance Program	5405 Memorial Drive, Suite 101	Stone Mountain	GA	30083–3234	15,466.00
Legal Aid Society of Hawaii	924 Bethel Street	Honolulu	HI	96813–4304	27,247.00
Center for Siouxland	715 Douglas St	Sioux City	IA	51101–1021	33,205.00
Eastern Iowa Regional Housing Corp	7600 Commerce Park	Dubuque	IA	52002–9673	17,732.00
Home Opportunities Made Easy, Inc	1618 6th Ave	Des Moines	IA	50314–3301	36,558.00
Horizons, A Family Service Alliance	819 5th St SE	Cedar Rapids	IA	52401–2128	39,809.00
Muscatine, City of	215 Sycamore St	Muscatine	IA	52761–3839	17,879.00
Idaho Housing and Finance Association	P.O. Box 7899	Boise	ID	83702–7675	457,323.00
Consumer Credit Counseling Service of Northern Illinois, Inc.	13707 W Jackson St	Woodstock	IL	60098–3188	55,194.00
Housing Action Illinois	67 E Madison Street, Suite 1603.	Chicago	IL	60603–3014	1,508,076.00
Macoupin County Housing Authority	P.O. Box 226	Carlinville	IL	62626–1003	22,659.00
Smart Women/Smart Money Educational Foundation.	3510 W Franklin Blvd	Chicago	IL	60624–1316	28,676.00
Will County Center for Community Concerns, Inc	2455 Glenwood Ave	Joliet	IL	60435–5464	31,234.00
Affordable Housing Corp	812 S Washington St	Marion	IN	46953–1967	46,127.00
Bloomington, City of	P.O. Box 100	Bloomington	IN	47404–3729	15,000.00
Hoosier Uplands Economic Development Corporation.	500 W Main St	Mitchell	IN	47446–1411	30,249.00
Lincoln Hills Development Corporation	P.O. Box 336	Tell City	IN	47586–2207	21,000.00
Campbellsville Housing & Redevelopment Authority.	400 Ingram Ave	Campbellsville	KY	42718–1627	16,746.00
Housing Assistance and Development Services, Inc.	P.O. Box 9637	Bowling Green	KY	42101–3403	28,843.00
KCEOC Community Action Partnership, Inc	P.O. Box 490	Barbourville	KY	40734–6582	21,674.00
Kentucky Housing Corporation	1231 Louisville Rd	Frankfort	KY	40601–6156	178,171.00
Live Dream Development Inc	247 Double Springs Rd	Bowling Green	KY	42101–5160	7,039.00
Louisiana Housing Corporation	2415 Quail Drive	Baton Rouge	LA	70808–0120	467,281.00
Catholic Social Services F River	1600 Bay St	Fall River	MA	02724–1216	33,205.00
Citizens' Housing and Planning Association, Inc	One Beacon Street 5th Floor	Boston	MA	02108–2305	683,898.00
Neighborhood Stabilization Corporation (NACA Counseling Subsidiary).	225 Centre Street, Suite 100	Boston	MA	02119–1298	3,442,516.50
PRO Home, Inc	40 Summer St	Taunton	MA	02780–3420	21,379.00
Springfield Partners for Community Action, Inc	721 State Street, 2nd Floor	Springfield	MA	01109–4109	17,437.00
The Housing Partnership Network	1 Washington Mall, 12th Fl	Boston	MA	02108–2603	723,002.00
Allegany County Human Resources Development Commission, Inc.	125 Virginia Avenue	Cumberland	MD	21502–3952	16,746.00
Arundel Community Development Services, Inc	2666 Riva Road	Annapolis	MD	21401–7345	34,292.00
Centro De Apoyo Familiar—Center for Assistance Familites.	6801 Kenilworth Ave	Riverdale	MD	20737–1331	133,161.00
Comprehensive Housing Assistance, Inc	5809 Park Heights Ave	Baltimore	MD	21215–3931	25,321.00
Consumer Credit Counseling Service of Maryland and Delaware, Inc. (CCCSMD).	6315 Hillside Ct	Columbia	MD	21046–3228	520,303.00
Diversified Housing Development Inc	8025 Liberty Rd	Windsor Mill	MD	21244–2966	34,191.00
Garwyn Oaks/Northwest Housing Resource Center, Inc.	2300 Garrison Blvd	Baltimore	MD	21216–2335	12,804.00
Hagerstown Neighborhood Development Partnership, Inc.	21 E Franklin Street	Hagerstown	MD	21740	35,176.00
Harford, County of	15 S Main St	Bel Air	MD	21014–8723	51,024.00
Homefree—USA	8401 Corporate Dr	Landover	MD	20785–2224	2,543,252.50
Housing Initiative Partnership, Inc	6525 Belcrest Road	Hyattsville	MD	20782–2003	70,813.00
Shore Up, Inc	520 Snow Hill Rd	Salisbury	MD	21804–6031	61,799.00
United Communities Against Poverty	1400 Dogwood Lane	Capitol Heights	MD	20743–1018	15,466.00

Organization name	Address or P.O. Box	City	State	Zip code	Award amount
Grand Rapids Urban League	745 Eastern Ave. SE	Grand Rapids	MI	49503–5544	45,000.00
Greenpath, Inc	36500 Corporate Dr	Farmington Hills	MI	48331–3553	2,061,270.00
Housing Services Mid-Michigan	319 S Cochran Ave	Charlotte	MI	48813–1555	43,751.00
Michigan State Housing Development Authority	735 E Michigan Avenue	Lansing	MI	48909	1,150,000.00
Northwest Michigan Community Action Agency, Inc.	3963 3 Mile Rd. N	Traverse City	MI	49686–9164	45,280.00
Oakland Livingston Human Service Agency	196 Cesar E Chavez Ave	Pontiac	MI	48342–1094	31,382.00
Oakland, County of	250 Elizabeth Lake Rd., Ste. 1900.	Pontiac	MI	48341–1035	51,149.00
Catholic Charities of The Diocese of Saint Cloud	157 Roosevelt Rd., Ste. 200	Saint Cloud	MN	56301–5485	52,134.00
Minnesota Homeownership Center	1000 Payne Avenue	Saint Paul	MN	55130–3986	695,273.00
Southern Minnesota Regional Legal Services, Inc.	55 5th St. E, Ste. 400	Saint Paul	MN	55101–1118	45,000.00
Community Services League of Jackson County	404 N Noland Rd	Independence	MO	64050–3057	21,379.00
Housing Options Provided for the Elderly (HOPE).	7300 Dartmouth Ave., Ste. 100	University City	MO	63130–2904	195,625.00
Housing Education and Economic Development Inc.	P.O. Box 11853	Jackson	MS	39213–6360	40,832.00
Mississippi Home Corporation	735 Riverside Drive	Jackson	MS	39202–1166	327,890.00
Montana Homeownership Network DBA Neighborworks Montana.	509 1st Ave. S	Great Falls	MT	59401–3604	625,423.00
Chatham County Housing Authority	P.O. Box 571	Siler City	NC	27344–6443	17,732.00
Housing Authority of the City of Greensboro	450 N Church St	Greensboro	NC	27401–2001	89,882.00
Housing Authority of the City of High Point	500 E Russell Ave	High Point	NC	27260–6746	23,498.00
North Carolina Housing Coalition	3608 University Blvd., #203	Durham	NC	27707–6260	1,212,725.00
Statesville Housing Authority Inc	110 W Allison St	Statesville	NC	28677–6616	35,176.00
Telamon Corporation	5560 Munford Road	Raleigh	NC	27612–2635	705,489.00
Western Piedmont Council of Governments	P.O. Box 9026	Hickory	NC	28601–5766	44,147.00
North Dakota Housing Finance Agency	P.O. Box 1535	Bismarck	ND	58504–6803	77,831.00
Blue Valley Community Action Inc	620 5th St	Fairbury	NE	68352–2624	35,029.00
Credit Advisors' Foundation	1818 S 72nd Street	Omaha	NE	68124–1704	99,270.00
Family Housing Advisory Services, Inc	2401 Lake St	Omaha	NE	68111–3872	54,398.00
High Plains Community Development Corporation, Inc.	803 E 3rd St	Chadron	NE	69337–2856	54,943.00
New Hampshire Housing Finance Authority	32 Constitution Dr	Bedford	NH	03110–6062	218,868.00
Consumer Credit and Budget Counseling, Dba National Foundation for Debt Management.	299 US Rte. 9 S	Marmora	NJ	8223–1210	154,999.00
Garden State Consumer Credit Counseling, Inc. D/B/A/Navicore Solutions.	200 US Highway 9	Manalapan	NJ	07726–3072	707,839.00
Housing & Community Development Network of New Jersey.	145 West Hanover Street	Trenton	NJ	08618–4823	367,957.00
New Jersey Housing and Mortgage Finance Agency.	P.O. Box 18550	Trenton	NJ	08611–1811	300,000.00
North Hudson Community Action Corporation	800—31st Street	Union City	NJ	07087–2428	16,746.00
Northern New Jersey, Fair Housing Council of	131 Main St	Hackensack	NJ	07601–7140	42,766.00
Ocean Community Economic Action Now Inc	40 Washington Street	Toms River	NJ	08753–7669	25,000.00
Paterson Housing Authority	60 Van Houten St	Paterson	NJ	07505–1028	17,732.00
Senior Citizens Community Services, Inc	537 W Nicholson Rd	Audubon	NJ	08106–1970	38,236.00
Nevada Partners, Inc	690 W Lake Mead Blvd	North Las Vegas	NV	89030–4017	40,795.00
Allegany County Community Opportunities and Rural Development, Inc.	84 Schuyler St	Belmont	NY	14813–1051	36,014.00
Greater Sheepshead Bay Development Corporation.	1851 Marine Pkwy	Brooklyn	NY	11234–4453	5,407.00
National Urban League	80 Pine St	New York	NY	10005–1720	1,635,579.50
Neighborhood Housing Services Inc	570 South Ave	Rochester	NY	14620–1337	39,809.00
New York Mortgage Coalition	14 Wall Street, 20th Floor	New York	NY	10005	472,720.00
New York State Housing Finance Agency	38–40 State Street	Albany	NY	12207–2837	1,168,070.00
Niagara Falls Neighborhood Housing Services Inc.	479 16th St	Niagara Falls	NY	14303–1636	37,838.00
Pathstone Corporation	400 East Avenue	Rochester	NY	14607–1910	296,025.00
West Side Neighborhood Housing Services Inc	359 Connecticut Street	Buffalo	NY	14213–2547	31,925.00
Community Housing Solutions	12114 Larchmere Blvd	Cleveland	OH	44120–1139	51,046.00
County Corp	130 W 2nd St., Ste. 1420	Dayton	OH	45402–1502	39,809.00
Fair Housing Resource Center	1100 Mentor Ave	Painesville	OH	44077–1832	59,326.00
Great Lakes Community Action Partnership	P.O. Box 590	Fremont	OH	43420–3021	22,511.00
Working in Neighborhoods	1814 Dreman Ave	Cincinnati	OH	45223–2319	30,249.00
Youngstown Neighborhood Development Corporation.	820 Canfield Rd	Youngstown	OH	44511–2345	34,191.00
Community Action Agency of Oklahoma City, and Oklahoma/Canadian Counties, Inc.	319 SW, 25th St	Oklahoma City	OK	73109–5921	19,703.00
Community Development Support Association, Inc.	114 S Independence St	Enid	OK	73701	32,911.00
Housing Authority of The Choctaw Nation of Oklahoma.	207 Jim Monroe Rd	Hugo	OK	74743–5202	52,722.00
Housing Partners of Tulsa, Inc	415 E Independence Street	Tulsa	OK	74106–5727	36,833.00
Quickcert Inc	7122 S Sheridan Rd., Ste. 2	Tulsa	OK	74133–2775	110,852.00
Community Connection of Northeast Oregon Inc	2802 Adams Ave	La Grande	OR	97850–5267	33,205.00
Open Door Counseling Center	34420 SW Tualatin Valley Hwy	Hillsboro	OR	97123–5470	68,717.00
Hispanic Association of Contractors and Enterprises.	167 W Allegheny Ave	Philadelphia	PA	19140–5846	73,582.00
Intercommunity Action, Inc	403 Rector St	Philadelphia	PA	19128–3522	16,452.00
Mon Valley Initiative	303–305 E 8th Avenue	Homestead	PA	15120–1517	703,144.00
Nueva Esperanza, Inc	4261 N 5th St	Philadelphia	PA	19140–2615	477,780.00

Organization name	Address or P.O. Box	City	State	Zip code	Award amount
Pennsylvania Housing Finance Agency	211 North Front Street	Harrisburg	PA	17101–1406	2,385,024.00
Providence Housing Authority	100 Broad St	Providence	RI	02909–4306	62,973.00
Charleston Trident Urban League	1064 Gardner Rd., Ste. 307	Charleston	SC	29407–5746	46,391.00
Greenville County Human Relations Commission	301 University Rd	Greenville	SC	29601–3636	47,376.00
Southeastern Housing and Community Development.	986 Doyle Street	Orangeburg	SC	29115–6087	33,896.00
South Dakota Housing Development Authority	P.O. Box 1237	Pierre	SD	57501–5876	271,411.00
Clinchpowell Resource Conservation and Development Council.	P.O. Box 379	Rutledge	TN	37861–3003	36,853.00
Tennessee Housing Development Agency	502 Deaderick Street	Nashville	TN	37243–0200	183,571.00
West Tennessee Legal Services, Incorporated	P.O. Box 2066	Jackson	TN	38301–6114	627,602.00
Austin Habitat for Humanity, Inc	500 W Ben White Blvd	Austin	TX	78704–7030	31,234.00
Easter Seals of Greater Houston, Inc	4888 Loop Central Dr	Houston	TX	77081–2227	33,601.00
Money Management International Inc	12603 Southwest Fwy., Suite 450 MB #8.	Stafford	TX	77477–3842	1,629,939.00
Waco Community Development Corporation	1624 Colcord Ave	Waco	TX	76707–2246	33,205.00
Community Action Services and Food Bank, Inc	815 S Freedom Blvd., Suite 100	Provo	UT	84601	38,133.00
Utah State University	6435 Old Main Hill	Logan	UT	84322–0001	47,817.00
Catholic Charities USA	2050 Ballenger Avenue	Alexandria	VA	22314–6847	868,693.00
Virginia Housing (VHDA)	601 S Belvidere Street	Richmond	VA	23220–6504	1,370,841.00
Virgin Islands Housing Finance Authority	3202 Demarara Plaza	St. Thomas	VI	00802–6447	66,778.00
Bennington-Rutland Opportunity Council Inc	45 Union St	Rutland	VT	05701–3956	58,635.00
Washington State Housing Finance Commission	1000 2nd Avenue, Suite 2700	Seattle	WA	98104–3601	200,000.00
Acts Housing	2414 West Vliet Street	Milwaukee	WI	53205–1830	81,799.00
Movin' Out, Inc	902 Royster Oaks Drive, Ste. 105.	Madison	WI	53714–9101	43,751.00
United Community Center, Inc	1028 S 9th Street	Milwaukee	WI	53204–1335	24,336.00
Housing Authority of Mingo County	5026 Helena Avenue	Delbarton	WV	25670–1308	46,827.00
Southern Appalachian Labor School Foundation, Inc.	1 Church Hill Road	Kincaid	WV	25119–0127	16,452.00
Wyoming Housing Network, Inc	2345 E 2nd St	Casper	WY	82609–2048	67,062.00
Total					53,080,241.88

[FR Doc. 2024–03409 Filed 2–16–24; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7080–N–08]

30-Day Notice of Proposed Information Collection: Study of Assessing CDBG–DR and Disaster Recovery Outcomes of Renter Household, OMB Control No.: 2528–NEW

AGENCY: Office of Policy Development and Research, Chief Data Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date: March 21, 2024.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. 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. Interested persons are also invited to submit comments regarding this proposal and comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Anna Guido, Clearance Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410–5000; email *PaperworkReductionActOffice@hud.gov.*

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410; email: *PaperworkReductionActOffice@hud.gov.* telephone (202) 402–5535. 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.* Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on September 29, 2023 at 88 FR 67336.

A. Overview of Information Collection

Title of Information Collection: Study of Assessing CDBG–DR and Disaster Recovery Outcomes of Renter Household.

OMB Approval Number: 2528-New.

Type of Request: New collection.

Form Number: N/A.

Description of the need for the information and proposed use: The Office of Policy Development and Research (PD&R), at the U.S. Department of Housing and Urban Development (HUD), is proposing the collection of information for the HUD–DR CDBG Disaster Recovery Outcomes of Renter Households Cooperative Agreement.

The goal of this research is to improve disaster recovery effectiveness for renter households by examining the disaster recovery outcomes of renter households and rental housing stock in places that received Community Development Block Grant-Disaster Recovery grants (CDBG–DR). This research is expected to help the Federal government, states, and communities throughout the United States improve disaster recovery effectiveness for renter households by

providing information about how disaster recovery programs funded through CDBG–DR have different impacts on renters and homeowners, and how disasters impact affordable rental housing stock over time. This research will be used to assess renter outcomes, barriers to accessing recovery resources, and mechanisms of Federal and local implementation of CDBG–DR grants. Results from this study will support HUD in identifying opportunities for changes to legislation, policy and program implementation in disaster recovery to improve outcomes for renters.

This **Federal Register** Notice provides an opportunity to comment on the information collection for this study titled HUDRD CDBG Disaster Recovery Outcomes of Renter Households. The information collection is designed to support the study of disaster outcomes on renters, including to better understand CDBG–DR allocations across housing tenure, specifically for renters, identify successful processes with corresponding outcomes for rental housing recovery aid programs and translate this research into actionable programmatic recommendations with appropriate timelines, policy making and implementation changes to improve these outcomes. The study includes a survey, interviews and focus groups in communities that have received CDBG–DR funding.

ANNUALIZED BURDEN TABLE

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Interviews with renters, developers, landlords	150	1	150	1	150	$43.07	$6,460.5
Surveys of Renters	185	1	185	0.5	92.5	43.07	3,983.98
Renter focus groups questions	50	2	100	4	400	43.07	17,228.00
Survey of CDBG–DR recipients	50	1	50	1	50	58.08	2,904.00
Total	435				692.5		$30,576.48

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

(5) Ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology. HUD encourages interested parties to submit comments in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Anna P. Guido,

Department Reports Management Office, Office of Policy Development and Research, Chief Data Officer.

[FR Doc. 2024–03408 Filed 2–16–24; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7092–N–20]

Privacy Act of 1974; System of Records

AGENCY: Office of Single-Family Housing, Office of Housing, HUD.

ACTION: Notice of a modified system of records.

SUMMARY: HUD Single Family Asset Management relies on the Single-Family Mortgage Asset Recovery Technology (SMART) System to provide various loan servicing functions including generating payoffs and processing payments for HUD FHA Insured Title II Secretary held loans. Pursuant to the Privacy Act of 1974, as amended, the Department of Housing and Urban Development (HUD), Office of Single-Family Housing, is modifying system of records, the Single-Family Mortgage Asset Recovery Technology (SMART) System. The modification will clarify the categories of system location, system manager, authority for maintenance, purpose of the system, record source categories, routine uses of records maintained in the system, storage, retention and disposal, safeguards.

DATES: Comments will be accepted on or before March 21, 2024. This proposed action will be effective on the date following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number or 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: www.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 451 Seventh Street SW, Room 10139; Washington, DC 20410–

0001; 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: HUD Single Family Asset Management relies on the Single-Family Asset Recovery Technology (SMART) System to provide various loan servicing functions including generating payoffs and processing for HUD FHA Insured Title II forward Secretary held loans. HUD is publishing this revised notice to update system location, manager, purpose, categories, routine uses, storage, retention and disposal, safeguards to mirror updated information in the sections being modified. The revision of system records will have no unnecessary impact on the individual's privacy and updates follow the records collected.

1. Location—Added the new location of backup records.

2. System Manager—Identified the new system manager operating this system of records.

3. Purpose—Expanded to include detailed loan servicing information.

4. Record Source Categories—Updated to cover all electronic and manual record sources for internal and external systems to HUD.

5. Routine Uses—Amended to cover routine uses that are new, modified or removed.

a. Added Routine Use (1) to address disclosures to the National Archives and Records Administration, Office of Government Information Services, to review administrative agency policies, procedures in compliance with FOIA and to facilitate the resolution of disputes between individuals making FOIA requests and administrative agencies.

b. Added Routine Use (2) for disclosures made to congressional office from the record of an individual, in response to an inquiry from the congressional office completed at the request of that individual.

c. Added Routine Use (3) to cover contractors who require access to the system in order to perform an agency function.

d. Added Routine Use (4) to address disclosures for Federal agencies, non-Federal entities, their employees, agents (including contractors, their agents, or employees) for detecting, preventing improper payments, fraud, waste, and abuse in Federal programs.

e. Added Routine Use (5) for disclosures made to contractors, grantees, experts, consultants, Federal agencies, and non-Federal entities conducting research and statistical analysis on HUD programs.

f. Added Routine Use (6) to cover disclosures related to using new technology including system designs to improve overall program performance.

g. Added Routine Use (7) and (8) for disclosures made to agencies, entities, and persons to assist HUD in responding to alleged or confirmed breaches of system records or other Federal agencies where HUD determines information from system records is needed to assist the agency in responding to an alleged or confirmed breach.

h. Added Routine Use (9) to address disclosures to Federal, State, local, tribal, or other governmental agencies or multilateral governmental organizations in authority of investigating or prosecuting the violations of, or for enforcing or implementing, a criminal or civil statue, rule, regulation, order, or license.

i. Added Routine Use (10) covering disclosures related to any area of the Department of Justice or other Federal agency overseeing litigation or related proceedings.

j. Previously published Routine Uses (a) and (b) have been renumbered to (11) and (12), but otherwise remain unchanged.

k. Added a note to allow for disclosures pursuant to 5 U.S.C. 552a(b)(12) to cover consumer reporting agency related disclosures on attempts of the agency to collect claims owed on behalf of the government.

6. Storage—Simplified the information regarding storage.

7. Retention and Disposal—Added additional disposition details.

8. Safeguards—Included more detail on updates to safeguard procedures.

SYSTEM NAME AND NUMBER:

Single-Family Mortgage Asset Recovery Technology (SMART), HUD/HOU–58.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Digital records are maintained at the Amazon Web Services (AWS) Simple Technology Solutions Inc, 1775 I Street NW, Suite 1150, Washington, DC 2006–2402. Active paper records are kept at ISN Corporation, 2000 N Classen Blvd., Suite 3200, Oklahoma City, OK 73106.

SYSTEM MANAGER(S):

Office of Single-Family Housing, Julia Rogers, Director, National Servicing Center, 301 NW 6th Street, Suite 200, Oklahoma City, OK 73102, Telephone Number (405) 609–8414.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Housing and Community Development Act of 1987, 42 U.S.C. 3543(a); Sec. 204, National Housing Act, 12 U.S.C. 1710(a). 42 U.S. Code 3543.

PURPOSE(S) OF THE SYSTEM:

The Single Family Mortgage Asset Recovery Technology (SMART) System is a specialized servicing web-application that is used to service and track servicing activities for the Secretary Held portfolio including 235 insured, Asset Control Area Program (ACA), Emergency Home Loan Program (EHLP), Good Neighbor Next Door Program (GNND), Hope for Homeowners (H4H), Nehemiah Program, Partial Claim (PC), Purchase Money Mortgage (PMM). SMART provides automated business processes to perform comprehensive loan servicing for loan programs that are under the jurisdiction of the National Servicing Center.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Mortgagors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Full Name, Social Security Number, Date of Birth, Email work Address, Financial Information, Home Address, Phone Number, Spouse Name, Lender Loan Number, FHA Case Number.

RECORD SOURCE CATEGORIES:

Records are initiated from HUD employees and their contractors. Information is also received from Single Family Insurance System (CLAIMS Subsystem), Asset Disposition and Management System, HUD FHA Resource Center Customer Relationship Management System (CRM).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

(1) To the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(h), to review administrative agency policies, procedures and compliance with the Freedom of Information Act (FOIA), and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

(2) To a congressional office from the record of an individual, in response to

an inquiry from the congressional office made at the request of that individual.

(3) To contractors, grantees, experts, consultants and their agents, or others performing or working under a contract, service, grant, cooperative agreement, or other agreement with HUD, when necessary to accomplish an agency function related to a system of records. Disclosure requirements are limited to only those data elements considered relevant to accomplishing an agency function.

(4) To Federal agencies, non-Federal entities, their employees, and agents (including contractors, their agents or employees; employees or contractors of the agents or designated agents); or contractors, their employees or agents with whom HUD has a contract, service agreement, grant, cooperative agreement, or computer matching agreement for the purpose of: (1) detection, prevention, and recovery of improper payments; (2) detection and prevention of fraud, waste, and abuse in major Federal programs administered by a Federal agency or non-Federal entity; (3) detection of fraud, waste, and abuse by individuals in their operations and programs; or (4) for the purpose of establishing or verifying the eligibility of, or continuing compliance with statutory and regulatory requirements by, applicants for, recipients or beneficiaries of, participants in, or providers of services with respect to, cash or in-kind assistance or payments under Federal benefits programs or recouping payments or delinquent debts under such Federal benefits programs. Records under this routine use may be disclosed only to the extent that the information shared is necessary and relevant to verify pre-award and prepayment requirements prior to the release of Federal funds, prevent and recover improper payments for services rendered under programs of HUD or of those Federal agencies and non-Federal entities to which HUD provides information under this routine use.

(5) contractors, grantees, experts, consultants, Federal agencies, and non-Federal entities, including, but not limited to, State and local governments and other research institutions or their parties, and entities and their agents with whom HUD has a contract, service agreement, grant, cooperative agreement, or other agreement for the purposes of statistical analysis and research in support of program operations, management, performance monitoring, evaluation, risk management, and policy development, to otherwise support the Department's mission, or for other research and statistical purposes not otherwise prohibited by law or regulation. Records under this routine use may not be used in whole or in part to make decisions that affect the rights, benefits, or privileges of specific individuals. The results of the matched information may not be disclosed in identifiable form.

(6) To contractors, experts, and consultants with whom HUD has a contract, service agreement, assignment, or other agreement, when necessary, to utilize relevant data for the purpose of testing new technology and systems designed to enhance program operations and performance.

(7) To appropriate agencies, entities, and persons when (1) HUD suspects or has confirmed that there has been a breach of the system of records; (2) HUD has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, HUD, 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 HUD's efforts to respond to the suspected or confirmed breach to prevent, minimize, or remedy such harm.

(8) To another Federal agency or Federal entity, when HUD 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.

(9) To appropriate Federal, State, local, tribal, or other governmental agencies or multilateral governmental organizations responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where HUD determines that the information would assist in the enforcement of civil or criminal laws and when such records, either alone or in conjunction with other information, indicate a violation or potential violation of law.

(10) To any component of the Department of Justice or other Federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body, when HUD determines that the use of such records is relevant and necessary to the litigation and when any of the following is a party to the litigation or have an interest in such litigation: (1) HUD, or any component thereof; or (2) any HUD employee in his or her official capacity; or (3) any HUD employee in his or her individual capacity where the Department of Justice or agency conducting the litigation has agreed to represent the employee; or (4) the United States, or any agency thereof, where HUD determines that litigation is likely to affect HUD or any of its components.

(11) To the U.S. Treasury for disbursements and adjustments.

(12) To the IRS for reporting of discharge indebtedness.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Electronic and paper records.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by mortgagor name, FHA Case Number, or property address.

POLICIES AND PRACTICIES FOR RETENTION AND DISPOSAL OF RECORDS:

In accordance with HUD records disposition schedule 2225.6, Appendix 20. records are destroyed upon successful creation of the final document or file, or when no longer needed for business use, whichever is later. Backup and recovery digital media will be destroyed or otherwise rendered irrecoverable per NIST SP 800–88 ''Guidelines for Media Sanitization.'' GRS 5.2, Item 20, DAA–GRS2017–0003–0002. Temporary. Destroy upon verification of successful creation of the final document or file, or when no longer needed for business use, whichever is later.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Administrative Safeguards: When first gaining access to SMART and annually, all users must agree to the systems ''Rules of Behavior'' which specify handling of personal information and any physical records.

Technical Safeguards: Controls for the system include, but are not limited to, username identification, password protection, multi-factor authentication, firewalls, virtual private network, encryption, and is limited to authorized users.

Physical Safeguards: Controls to secure the data and protect paper records are maintained and locked in file cabinets. The original collateral documents (hard copy) are stored at the contractor's office site for all open loans and the closed documents are stored at a secured offsite document storage facility. All hard copy files are stored within a secured room within the contractor's secured office suite when

not in use. Background screening, limited authorizations, and access, with access limited to authorized personnel and technical restraints employed regarding accessing the records, access to automated systems by authorized users by username and passwords.

RECORD ACCESS PROCEDURES:

Individuals requesting records of themselves should address written inquiries to the Department of Housing Urban and Development 451 7th Street SW, Washington, DC 20410–0001. For verification, individuals should provide their full name, current address, and telephone number. In addition, the requester must provide either a notarized statement or an unsworn declaration made under 24 CFR 16.4.

CONTESTING RECORD PROCEDURES:

The HUD rule for contesting the content of any record pertaining to the individual by the individual concerned is published in 24 CFR 16.8 or may be obtained from the system manager.

NOTIFICATION PROCEDURES:

Individuals requesting notification of records of themselves should address written inquiries to the Department of Housing Urban Development, 451 7th Street SW, Washington, DC 20410–0001. For verification purposes, individuals should provide their full name, office or organization where assigned, if applicable, and current address and telephone number. In addition, the requester must provide either a notarized statement or an unsworn declaration made under 24 CFR 16.4.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

Docket No. FR–5386–N–05, 75 FR 34755, June 18, 2010.

LaDonne White,

Chief Privacy Officer, Office of Administration.

[FR Doc. 2024–03312 Filed 2–16–24; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R2–ES–2024–N011; FXES11130200000–245–FF02ENEH00]

Endangered and Threatened Wildlife and Plants; Initiation of 5-Year Status Reviews of 22 Species in the Southwest; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of initiation of reviews; correction.

SUMMARY: We, the U.S. Fish and Wildlife Service, published a notice in the **Federal Register** on January 25, 2024, initiating 5-year status reviews of 22 species in the Southwest under the Endangered Species Act. We inadvertently provided incorrect information for our Austin, Texas, field office and misprinted the listing status of one species, the whooping crane. We are publishing this notice to make those corrections.

DATES: We are requesting submission of new information no later than February 26, 2024.

FOR FURTHER INFORMATION CONTACT: Beth Forbus, by telephone at 505–248–6681 or by email at *Beth_Forbus@fws.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: On January 25, 2024, we, the U.S. Fish and Wildlife Service, published a notice initiating 5-year status reviews of 22 species in the Southwest under the Endangered Species Act (16 U.S.C. 1531 *et seq.*). We inadvertently provided incorrect information for the Austin, Texas, field office and misprinted the listing status of one species, the whooping crane (*Grus americana*). We are publishing this notice to make those corrections. For how to provide comments, see our January 25, 2024, notice (89 FR 4966).

Corrections

In the **Federal Register** of January 25, 2024, in FR Doc. 2024–01493, please make the following corrections:

1. On page 4967, in the first row of the table, replace the telephone number in the ''Contact person, phone, email'' entry with ''512–937–7371''.

2. On page 4967, in the first row of the table, replace the entire ''Contact person's U.S. mail address'' entry with ''U.S. Fish and Wildlife Service, Austin Ecological Services Office, 1505 Ferguson Lane, Austin, TX 78754.''.

3. On page 4968, in the ''Whooping crane'' entry in the table, in the ''Listing status'' column, replace ''Threatened'' with ''Endangered''.

Jeffrey Fleming,

Acting Regional Director, Southwest Region, U.S. Fish and Wildlife Service.

[FR Doc. 2024–03353 Filed 2–16–24; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX24EE000101100]

Public Meeting of the National Geospatial Advisory Committee

AGENCY: Geological Survey, Department of the Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act of 1972 (FACA), the U.S. Geological Survey (USGS) is publishing this notice to announce that a Federal Advisory Committee meeting of the National Geospatial Advisory Committee (NGAC) will take place and is open to members of the public.

DATES: The meeting will be held on Tuesday, April 2, 2024, from 9:00 a.m. to 5:00 p.m.; Wednesday, April 3, 2024, from 9:00 a.m. to 12:00 p.m.; and on Thursday, April 4, 2024, from 9:00 a.m. to 4:00 p.m. Eastern Daylight Time.

ADDRESSES: The meeting will be held in the South Penthouse Conference Room of the Department of the Interior Building, located at 1849 C Street NW, Washington, DC Members of the public may attend the meeting in person or can attend via webinar. Instructions for registration to attend the meeting will be posted at *www.fgdc.gov/ngac.* Comments can be sent by email to *gs-faca@usgs.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Josh Delmonico, Federal Geographic Data Committee (FGDC), USGS, by mail at 12201 Sunrise Valley Drive, MS 590, Reston, VA 20192; by email at *jdelmonico@usgs.gov;* or by telephone at (703) 648–5752.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the FACA (5 U.S.C. ch. 10), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR part 102–3.

Purpose of the Meeting: The NGAC provides advice and recommendations to the FGDC related to the management of federal and national geospatial programs, the development of the National Spatial Data Infrastructure (NSDI), and the implementation of the Geospatial Data Act of 2018 (GDA) and

the Office of Management and Budget Circular A–16. The NGAC reviews and comments on geospatial policy and management issues and provides a forum to convey views representative of non-federal stakeholders in the geospatial community. The NGAC is one of the primary ways that the FGDC collaborates with its broad network of partners. Additional information about the NGAC is available at: *www.fgdc.gov/ngac.*

Agenda Topics:

—FGDC Update
—Landsat Advisory Group
—3D Elevation Program
—Geospatial Data Act
—NSDI Strategic Planning
—GeoPlatform
—Findable, Accessible, Interoperable, Reusable (FAIR) Data
—Public Comment

Meeting Accessibility/Special Accommodations: Please make requests in advance for sign language interpreter services, assistive listening devices, or other reasonable accommodations. We ask that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice at least seven (7) business days prior to the meeting to give the Department of the Interior sufficient time to process your request. All reasonable accommodation requests are managed on a case-by-case basis. Seating for in-person attendees may be limited due to room capacity. Webinar/conference line instructions will be provided to registered attendees prior to the meeting.

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.

Public Disclosure of Comments: There will be an opportunity for public comment during each day of the meeting. Depending on the number of people who wish to speak and the time available, the time for individual comments may be limited. Written comments may also be sent to the NGAC for consideration. To allow for full consideration of information by NGAC members, written comments must be provided to Josh Delmonico (see **FOR FURTHER INFORMATION CONTACT**) at least three (3) business days prior to the meeting. Any written comments received will be provided to NGAC members before the meeting.

Before including your address, phone number, email address, or other personally identifiable information (PII) in your comment, you should be aware that your entire comment—including your PII—may be made publicly available at any time. While you may ask us in your comment to withhold your PII from public review, we cannot guarantee that we will be able to do so.

Authority: 5 U.S.C. Ch. 10.

Kenneth Shaffer,

Deputy Executive Director, Federal Geographic Data Committee.

[FR Doc. 2024–03330 Filed 2–16–24; 8:45 am]

BILLING CODE 4338–11–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint regarding *Certain Liquid Coolers for Electronic Components in Computers, Components Thereof, Devices for Controlling Same, and Products Containing Same,* DN 3723; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.*

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov* . The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of CMC Great USA, Inc.; CMI USA, Inc.; and Cooler Master Co., Ltd. on February 14, 2024. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain liquid coolers for electronic components in computers, components thereof, devices for controlling same, and products containing same. The complaint names as respondents: SilverStone Technology Co., Ltd. of Taiwan; SilverStone Technology, Inc. of Chino, CA; Enermax Technology Corp. of Taiwan; Enermax USA of Chino, CA; Shenzhen Apaltek Co., Ltd. of China; and Guangdong Apaltek Liquid Cooling Technology Co., Ltd. of China. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondent alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due, notwithstanding § 201.14(a) of the Commission's Rules of Practice and Procedure. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3723'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov.*) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel [2], solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: February 14, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024–03386 Filed 2–16–24; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

DEPARTMENT OF JUSTICE

[OMB Number 1110–0073]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Previously Approved Collection; Crime Data Explorer (CDE Feedback Survey)

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Federal Bureau of Investigation (FBI), Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until April 22, 2024.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Edward L. Abraham, Crime and Law Enforcement Statistics Unit Chief, FBI, CJIS Division, Module D–1, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; *elabraham@fbi.gov,* 304–625–4830.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Abstract: This survey is needed to collect feedback on the functionality of the CDE to make improvements to the application.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a previously approved collection.

2. *The Title of the Form/Collection:* Crime Data Explorer (CDE) Feedback Survey.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* N/A. CJIS Division, FBI.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* Affected Public: Law enforcement, academia, and the general public. The obligation to respond is voluntary.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The total estimated number of responses is 200 per year.

The time per response is 2 minutes to complete the survey.

6. *An estimate of the total annual burden (in hours) associated with the collection:* CJIS estimates total 7 burden hours (200 × 2 min/60 = 7).

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* $0.

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency	Total annual responses	Time per response	Total annual burden (hours)
Survey	200	1/annually	200	2 min	7
Undisputed Totals	*200*		*200*		*7*

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC.

Dated: February 14, 2024.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2024–03395 Filed 2–16–24; 8:45 am]

BILLING CODE 4410–02–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub., L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Proposal Review Panel for Materials Research—Materials Research Science and Engineering Center (MRSEC) Site Visit University of California, San Diego (DMR) (#1203)

Date and Time: May 23, 2024; 7:30 a.m.–6:45 p.m.; May 24, 2024; 8:00 a.m.–3:45 p.m.

Place: University of California, San Diego, 9500 Gilman Dr., La Jolla, CA 92093.

Type of Meeting: Part-Open.

Contact Person: Dr. Cosima Boswell-Koller, Program Director, National Science Foundation, 2415 Eisenhower Ave., Alexandria, VA 22314; Telephone: 703–292–4959.

Purpose of Meeting: NSF site visit to conduct a review during year 4 of the award period as stipulated in the cooperative agreement.

Agenda: To conduct an in depth evaluation of performance, to assess progress towards goals, and to provide recommendations.

Thursday, May 23, 2024

7:30 a.m.–12:05 p.m. Executive Sessions (Closed)
12:05 p.m.–1:00 p.m. Lunch (Open)
1:00 p.m.–2:30 p.m. Executive Sessions (Closed)
2:30 p.m.–3:30 p.m. Facilities Overview and Lab Tour (Closed)
3:30 p.m.–5:00 p.m. Poster Session (Open)
5:00 p.m.–6:45 p.m. Executive Sessions (Closed)

Friday, May 24, 2024

8:00 a.m.–3:45 p.m. Executive Sessions (Closed)

Reason for Closing: The program being reviewed during the sitve visit will include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the program. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: February 14, 2024.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2024–03412 Filed 2–16–24; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Request for Information on the National Spectrum Research and Development Plan

AGENCY: Networking and Information Technology Research and Development (NITRD) National Coordination Office (NCO), National Science Foundation.

ACTION: Request for information.

SUMMARY: Pursuant to the *Presidential Memorandum on Modernizing United States Spectrum Policy and Establishing a National Spectrum Strategy*, November 13, 2023, the Secretary of Commerce, acting through the National Telecommunications and Information Administration (NTIA), released a National Spectrum Strategy (Strategy), November 13, 2023. The word ''spectrum'' in this context refers to the radio frequency portion of the electromagnetic spectrum. Strategic Objective 3.2 of the Strategy directs the U.S. Government, through the White House Office of Science and Technology Policy (OSTP) and in coordination with the Federal agencies, to develop a National Spectrum Research and Development Plan (R&D Plan). On behalf of OSTP, NITRD NCO seeks public input for the creation of the R&D Plan. The R&D Plan will act as an organizing national document, providing guidance for government investments in spectrum-related research and offering valuable insights. The R&D Plan will identify key innovation areas for spectrum research and development and will include a process to refine and enhance these areas on an ongoing basis.

DATES: Interested persons are invited to submit comments on or before 11:59 p.m. (ET) on March 21, 2024.

ADDRESSES: Comments submitted in response to this RFI may be sent by any of the following methods:

- *Email: SpectrumRnDplanRFI@nitrd.gov;* Email submissions should be machine-readable and not be copy-protected. Submissions should include ''RFI Response: National Spectrum R&D Plan'' in the subject line of the message.
- *Fax:* 202–459–9673, Attn: Mallory Hinks; or
- *Mail:* Attn: Mallory Hinks, 2415 Eisenhower Avenue, Alexandria, VA 22314, USA.

Instructions: Response to this RFI is voluntary. Each individual or institution is requested to submit only one response. Submissions must not exceed 10 pages in 12 point or larger font, with a page number provided on each page. Responses must include the name of the person(s) or organization(s) filing the comment and the following statement: ''This document is approved for public dissemination. The document contains no business-proprietary or confidential information. Document contents may be

reused by the government in the National Spectrum R&D Plan and associated documents without attribution.'' Responses to this RFI may be posted online at *https://www.nitrd.gov/*. Therefore, we request that no business proprietary information, copyrighted information, or sensitive personally identifiable information be submitted as part of your response to this RFI. In accordance with FAR 15.202(3), responses to this notice are not offers and cannot be accepted by the Government to form a binding contract. Responders are solely responsible for all expenses associated with responding to this RFI.

FOR FURTHER INFORMATION CONTACT: Mallory Hinks at *SpectrumRnDplanRFI@nitrd.gov* or (202) 459–9674. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., eastern time, Monday through Friday, except for U.S. Federal Government holidays.

SUPPLEMENTARY INFORMATION: The National Spectrum Strategy (Strategy), November 13, 2023, Strategic Objective 3.2 directs the U.S. Government, through the White House Office of Science and Technology Policy and in coordination with the Federal agencies, to develop a National Spectrum Research and Development Plan (R&D Plan). The R&D Plan will act as an organizing national document, providing guidance for government investments in spectrum-related research and offering valuable insights. The plan will identify key innovation areas for spectrum research and development and will include a process to refine and enhance these areas on an ongoing basis.

OSTP has tasked the NITRD Wireless Spectrum Research and Development Interagency Working Group (WSRD IWG) to draft and coordinate development of the National Spectrum R&D Plan. The R&D Plan is expected to be released in late 2024. Revisions will occur periodically.

The NITRD WSRD IWG requests input from the public, including academia and industry, to assist in development of the National Spectrum R&D Plan.

Topics: We encourage responses to be organized according to the following outline, although we also welcome responses that address only a subset of the items below. Submitters are encouraged to address the topics of this RFI clearly and concisely. Submitted information that does not directly address the RFI may be disregarded.

1. Recommendations on strategies for conducting spectrum research in a manner that minimizes unnecessary duplication, ensures that all essential spectrum research areas are sufficiently explored, and achieves measurable advancements in state-of-the-art spectrum science and engineering. This includes, but is not limited to, the following:

- Methods/approaches to increase coordinated investment in R&D amongst government agencies, academia, civil society, and the private sector
- Structural and process improvements in the organization and promotion of Federal and non-Federal spectrum R&D

2. Recommended priority areas for spectrum research and development, as well as productive directions for advancing the state-of-the-art in those areas. Areas of interest include, but are not limited to, the following:

- Spectrum utilization efficiency
- Spectrum resilience and assured access for critical mission applications and passive scientific observation
- Dynamic spectrum access and management
- Spectrum situational awareness at scale
- Automatic and rapid mitigation of interference problems
- Modeling for coexistence analysis

Topics relevant to each of the above include, but are not limited to, the following:

- Technical methods, designs, and processes
- Economic-, market-, social-, and human-centric concerns
- Business and economic models
- Protection of citizen privacy, sensitive government missions, and business proprietary data
- Cost-effective hardware supporting more dynamic spectrum usage
- Use of artificial intelligence and machine learning techniques
- Testbed development
- Assessment and certification of advanced systems

3. Recommendations on grand challenge problems for spectrum R&D. Grand challenges are selected research problems that if attacked will help motivate and coalesce R&D efforts. Such problems have the following characteristics:

- The goal can be concisely articulated to stakeholders outside the field
- Success or failure is clear
- Achieving success requires advancing the state-of-the-art in multiple areas

4. Recommendations on spectrum R&D accelerators such as the following:

- Shared public datasets
- Open-source software/projects
- Cost-effective flexible radio platforms
- Benchmarks and competitions
- Testbeds, research infrastructure, and collaboration support

5. Recommendations on near-term Federal activities to make progress towards anything identified in responses 1–4.

6. Recommendations on a process to refine and enhance the R&D plan on an ongoing basis.

7. Terminology and definitions relevant for spectrum R&D.

- One term of interest is ''Dynamic Spectrum Sharing'' which is a focus of the National Spectrum Strategy but was not defined.

8. Other topics.

Next steps: The NITRD WSRD IWG will consider submissions to this RFI when preparing the National Spectrum R&D Plan. The NITRD WSRD IWG will not provide responses to submissions. Submissions may be posted to the NITRD website listed above for public review. An open to the public meeting will be held in May 2024, for community engagement with the NITRD WSRD IWG on the R&D Plan. A notice of this meeting with how to participate will be published in the **Federal Register** and on the NITRD WSRD IWG web page, *https://www.nitrd.gov/coordination-areas/wsrd/.*

References

- *Presidential Memorandum on Modernizing United States Spectrum Policy and Establishing a National Spectrum Strategy, https://www.whitehouse.gov/briefing-room/presidential-actions/2023/11/13/memorandum-on-modernizing-united-states-spectrum-policy-and-establishing-a-national-spectrum-strategy/.*
- *National Spectrum Strategy, https://www.ntia.gov/sites/default/files/publications/national_spectrum_strategy_final.pdf.*

Submitted by the National Science Foundation in support of the Networking and Information Technology Research and Development (NITRD) National Coordination Office (NCO) on February 14, 2024.

(Authority: 42 U.S.C. 1861.)

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2024–03400 Filed 2–16–24; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2024–0042]

Monthly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Monthly notice.

SUMMARY: Pursuant to section 189.a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular monthly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration (NSHC), notwithstanding the pendency before the Commission of a request for a hearing from any person.

DATES: Comments must be filed by March 21, 2024. A request for a hearing or petitions for leave to intervene must be filed by April 22, 2024. This monthly notice includes all amendments issued, or proposed to be issued, from January 5, 2024, to February 1, 2024. The last monthly notice was published on January 23, 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–2024–0042. 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.
- *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: Karen Zeleznock, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–1118; email: *Karen.Zeleznock@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2024–0042, facility name, unit number(s), docket number(s), application date, and subject 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–2024–0042.
- *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–2024–0042, facility name, unit number(s), docket number(s), application date, and subject, 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. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

For the facility-specific amendment requests shown in this notice, the Commission finds that the licensees' analyses provided, consistent with section 50.91 of title 10 of *the Code of Federal Regulations* (10 CFR) ''Notice for public comment; State consultation,'' are sufficient to support the proposed determinations that these amendment requests involve NSHC. Under the Commission's regulations in 10 CFR 50.92, operation of the facilities in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission is seeking public comments on these proposed determinations. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determinations.

Normally, the Commission will not issue the amendments until the expiration of 60 days after the date of publication of this notice. The Commission may issue any of these license amendments before expiration of the 60-day period provided that its final determination is that the amendment involves NSHC. In addition, the Commission may issue any of these amendments prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. If the Commission takes action on any of these amendments prior to the expiration of either the comment period or the notice period, it will publish in

the **Federal Register** a notice of issuance. If the Commission makes a final NSHC determination for any of these amendments, any hearing will take place after issuance. The Commission expects that the need to take action on any amendment before 60 days have elapsed will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person (petitioner) whose interest may be affected by any of these actions may file a request for a hearing and petition for leave to intervene (petition) with respect to that 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 a current copy of 10 CFR 2.309. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a 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).

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration, which will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally recognized Indian 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 Indian 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.*

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including documents filed by an interested State, local governmental body, Federally recognized Indian 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.

The following table provides the plant name, docket number, date of application, ADAMS accession number, and location in the application of the licensees' proposed NSHC determinations. For further details with respect to these license amendment applications, see the applications for amendment, which are available for public inspection in ADAMS. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

LICENSE AMENDMENT REQUESTS

Constellation Energy Generation, LLC; Peach Bottom Atomic Power Station, Unit 1; York County, PA	
Docket No	50–171.
Application date	September 22, 2023.
ADAMS Accession No	ML23265A150.
Location in Application of NSHC	Pages 7–9 of Attachment 1.
Brief Description of Amendment	The proposed amendment would modify License Condition 2.C(1) and Technical Specifications (TSs) Sections 1.0, 2.1(b)1, 2.1(b)6, 2.3(b)1, and 2.3(b)2 to remove restrictions that currently preclude certain decommissioning activities without prior NRC approval. The proposed changes would amend the applicable License Condition and TSs to eliminate legacy restrictions and adopt requirements that more closely align with the current standards and guidance that govern decommissioning activities/efforts as specified in 10 CFR 50.82.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Donald P. Ferraro, Assistant General Counsel, Constellation Energy Generation, LLC, 200 Exelon Way, Suite 305, Kennett Square, PA 19348.
NRC Project Manager, Telephone Number	Tanya Hood, 301–415–1387.
Constellation FitzPatrick, LLC and Constellation Energy Generation, LLC; James A. FitzPatrick Nuclear Power Plant; Oswego County, NY	
Docket No	50–333.
Application date	December 14, 2023.
ADAMS Accession No	ML23348A154.
Location in Application of NSHC	Pages 7–8 of Attachment 1.
Brief Description of Amendment(s)	The proposed amendment would modify Technical Specification (TS) requirements in Section 1.3 regarding Completion Times and Section 3.0 regarding Limiting Condition for Operation and Surveillance Requirement usage. These changes are consistent with the NRC-approved Technical Specification Task Force (TSTF) Traveler TSTF–529, Revision 4, ''Clarify Use and Application Rules.'' Additionally, the proposed amendment makes several administrative changes to the TS.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Jason Zorn, Associate General Counsel, Constellation Energy Generation, 101 Constitution Ave. NW, Suite 400 East, Washington, DC 20001.
NRC Project Manager, Telephone Number	James Kim, 301–415–4125.
Energy Northwest; Columbia Generating Station; Benton County, WA	
Docket No	50–397.
Application date	December 5, 2023.
ADAMS Accession No	ML23339A124.
Location in Application of NSHC	Pages 2–3 of the Enclosure.
Brief Description of Amendment	The proposed amendment would modify Technical Specification (TS) 3.3.6.1, ''Primary Containment Isolation Instrumentation,'' to remove the requirement that the Reactor Water Cleanup (RWCU) System automatically isolate on manual initiation of the Standby Liquid Control (SLC) System. This change to the TS facilitates a future change to the plant design and procedures to require manually isolating the RWCU System when manually initiating the SLC System. The proposed change is consistent with NRC-approved Technical Specification Task Force (TSTF) Traveler TSTF–584, Revision 0, ''Eliminate Automatic RWCU System Isolation on SLC Initiation.''
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Ryan Lukson, Assistant General Counsel, Energy Northwest, MD 1020, P.O. Box 968, Richland, WA 99352.
NRC Project Manager, Telephone Number	Mahesh Chawla, 301–415–8371.
Florida Power & Light Company; Turkey Point Nuclear Generating Units 3 and 4; Miami-Dade County, FL	
Docket Nos	50–250, 50–251.

LICENSE AMENDMENT REQUESTS—Continued

Application date	November 15, 2023.
ADAMS Accession No	ML23320A028.
Location in Application of NSHC	Page 42–46 of Enclosure 1.
Brief Description of Amendments	The proposed amendments would revise the Turkey Point Nuclear Generating Units 3 and 4 licensing basis by incorporating advanced fuel features (e.g., AXIOM® cladding, ADOPT™ fuel pellets, and a PRIME™ fuel skeleton), extend Technical Specification (TS) surveillance intervals, modify TS Allowable Values, and make conforming changes to the Updated Final Safety Analysis Report to facilitate a transition to 24-month fuel cycles.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Steven Hamrick, Senior Attorney 801 Pennsylvania Ave. NW, Suite 220 Washington, DC 20004.
NRC Project Manager, Telephone Number	Michael Mahoney, 301–415–3867.

Southern Nuclear Operating Company, Inc.; Edwin I. Hatch Nuclear Plant, Units 1 and 2; Appling County, GA

Docket Nos	50–321, 50–366.
Application date	August 19, 2022, as supplemented by letters dated January 20, 2023; October 20, 2023; January 30, 2024.
ADAMS Accession Nos	ML22231B055, ML23020A902, ML23293A235, ML24030A895.
Location in Application of NSHC	Pages E1–11 to E1–12 of Attachment 3 in supplement dated January 30, 2024.
Brief Description of Amendments	The proposed amendments would revise the renewed facility operating licenses and Technical Specifications Table 1.1–1, ''MODES,'' to relax the required number of fully tensioned reactor pressure vessel closure studs.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Millicent Ronnlund, Vice President and General Counsel, Southern Nuclear Operating Co., Inc., P.O. Box 1295, Birmingham, AL 35201–1295.
NRC Project Manager, Telephone Number	Andrea Johnson 301–415–2890.

Southern Nuclear Operating Company, Inc.; Edwin I. Hatch Nuclear Plant, Units 1 and 2; Appling County, GA

Docket Nos	50–321, 50–366.
Application date	December 6, 2023.
ADAMS Accession No	ML23340A223.
Location in Application of NSHC	Pages A1–4 to A1–5 of Attachment 1.
Brief Description of Amendments	The proposed amendments would modify the Edwin I. Hatch Nuclear Plant, Units 1 and 2, Technical Specification (TS) requirements related to Completion Times (CTs) for Required Actions to provide the option to calculate a longer, risk-informed CT for the condition of one pump inoperable for TS 3.7.1, ''Residual Heat Removal Service Water (RHRSW) System,'' and for TS 3.7.2, ''Plant Service Water (PSW) System and Ultimate Heat Sink (UHS).'' The proposed amendments would also make corresponding changes to TS 5.5.16, ''Risk Informed Completion Time Program,'' and to TS 1.3, ''Completion Times,'' Example 1.3–8.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Millicent Ronnlund, Vice President and General Counsel, Southern Nuclear Operating Co., Inc., P.O. Box 1295, Birmingham, AL 35201–1295.
NRC Project Manager, Telephone Number	John Lamb, 301–415–3100.

Tennessee Valley Authority; Watts Bar Nuclear Plant, Unit 1; Rhea County, TN

Docket No	50–390.
Application date	January 8, 2024.
ADAMS Accession No	ML24009A165.
Location in Application of NSHC	Pages E6 and E7 of the Enclosure.
Brief Description of Amendment	The proposed amendment would revise Watts Bar Nuclear Plant, Unit 1, Technical Specification 3.8.2, ''AC Sources-Shutdown,'' Limiting Condition for Operation to remove the note regarding the C–S diesel generator.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	David Fountain, Executive VP and General Counsel, Tennessee Valley Authority, 6A West Tower, 400 West Summit Hill Drive, Knoxville, TN 37902.
NRC Project Manager, Telephone Number	Kimberly Green, 301–415–1627.

Tennessee Valley Authority; Watts Bar Nuclear Plant, Units 1 and 2; Rhea County, TN

Docket Nos	50–390, 50–391.
Application date	December 13, 2023.
ADAMS Accession No	ML23347A161.
Location in Application of NSHC	TSTF–5: pages E–5 and E–6; TSTF–9: pages E–9 and E–10; TSTF–12: pages E–12 and E–13; TSTF–13: pages E–15 and E–16; TSTF–14: pages E–18 and E–19; TSTF–109: pages E–21 and E–22; TSTF–110: pages E–25 and E–26; TSTF–135: pages E–30 and E–31; TSTF–136: pages E–33 and E–34; TSTF–142: pages E–36 and E–37; TSTF–241: pages E–41 and E–42; TSTF–256: pages E–44 and E–45; TSTF–339: pages E–47 and E–48.

LICENSE AMENDMENT REQUESTS—Continued

Brief Description of Amendments	The proposed amendments would revise various technical specifications (TS) in Watts Bar Nuclear Plant, Units 1 and 2 TS 2.0, 3.0, 3.1, 3.2, 3.3, 3.4, and 5.9.5 by adopting the following Technical Specifications Task Force (TSTF) Travelers: TSTF–5–A, Revision 1, ''Delete Safety Limit Violation Notification Requirements,'' TSTF–9–A, Revision 1, ''Relocate Value for Shutdown Margin to COLR [core operating limit report],'' TSTF–12–A, Revision 1, ''Delete LCO [limiting condition for operation] 3.1.9 and 3.1.11 (Physics Tests Exceptions),'' TSTF–13–A, Revision 1, ''Move SR [surveillance requirement] For 300 ppm MTC [moderator temperature coefficient] Measurement to Frequency Note of SR 3.1.4.3,'' TSTF–14–A, Revision 4, ''Add an LCO Item and SR to Mode 2 Physics Tests Exceptions To Verify That Thermal Power <= 5% RTP [rated thermal power],'' TSTF–109–A, ''Clarify the QPTR [quadrant power tilt ratio] Surveillances,'' TSTF–110–A, Revision 2, ''Delete SR Frequencies Based on Inoperable Alarms,'' TSTF–135–A, Revision 3, ''RPS [reactor protection system] and ESFAS [engineered safety features actuation signals] Instrumentation,'' TSTF–136–A, ''Combine LCO 3.1.1 and 3.1.2,'' TSTF–142–A, ''Increase the Completion Time When the Core Reactivity Balance is Not Within Limit,'' TSTF–241–A, Revision 4, ''Allow Time for Stabilization After Reducing Power Due to QPTR Out-of-Limit,'' TSTF–256–A, ''Modify MODE 2 STE [special test exemption] Applicability,'' and TSTF–339–A, Revision 2, ''Relocate TS Parameters to COLR.'' The amendments would also delete one-time historical information from TS Surveillance Requirements 3.1.3.1 and 3.1.4.1, and make editorial changes for items that are not consistent with Standard Technical Specifications.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	David Fountain, Executive VP and General Counsel, Tennessee Valley Authority, 6A West Tower, 400 West Summit Hill Drive, Knoxville, TN 37902.
NRC Project Manager, Telephone Number	Tony Sierra, 301–287–9531.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last monthly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed NSHC determination, and opportunity for a hearing in connection with these actions, were published in the **Federal Register** as indicated in the safety evaluation for each amendment.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated in the safety evaluation for the amendment.

For further details with respect to each action, see the amendment and associated documents such as the Commission's letter and safety evaluation, which may be obtained using the ADAMS accession numbers indicated in the following table. The safety evaluation will provide the ADAMS accession numbers for the application for amendment and the **Federal Register** citation for any environmental assessment. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

LICENSE AMENDMENT ISSUANCES

Dominion Energy Nuclear Connecticut, Inc.; Millstone Power Station, Unit No. 3; New London County, CT	
Docket No	50–423.
Amendment Date	January 12, 2024.
ADAMS Accession No	ML23341A017.
Amendment No	288.
Brief Description of Amendment	The amendment revised the Millstone Power Station, Unit No. 3 Technical Specification 3.4.9.1, ''Reactor Coolant System Pressure/Temperature Limits,'' to reflect that the existing pressure-temperature limit curves for 32 effective full power years (EFPY) in Figures 3.4–2 and 3.4–3 of TS 3.4.9.1 are applicable up to 54 EFPY.
Public Comments Received as to Proposed NSHC (Yes/No).	No.
Entergy Operations, Inc.; Arkansas Nuclear One, Unit 1; Pope County, AR	
Docket No	50–313.
Amendment Date	January 24, 2024.
ADAMS Accession No	ML23326A039.
Amendment No	281.

LICENSE AMENDMENT ISSUANCES—Continued

Brief Description of Amendment	The amendment revised the technical specifications to permit the use of risk-informed completion times for actions to be taken when limiting conditions for operation are not met. The changes are based on Technical Specifications Task Force (TSTF) Traveler TSTF–505, Revision 2, ''Provide Risk-informed Extended Completion Times—RITSTF [Risk-Informed TSTF] Initiative 4b,'' dated July 2, 2018 (ML18183A493).
Public Comments Received as to Proposed NSHC (Yes/No).	No.
Florida Power & Light Company; Turkey Point Nuclear Generating Unit Nos. 3 and 4; Miami-Dade County, FL	
Docket No	50–250, 50–251.
Amendment Date	January 22, 2024.
ADAMS Accession No	ML23320A306.
Amendment Nos	298 (Unit 3), 291 (Unit 4).
Brief Description of Amendments	The amendments revised the Fire Protection Program in support of reactor coolant pump (RCP) seal replacements. The amendments were requested in accordance with the units' operating licenses, paragraph 3.D, ''Fire Protection,'' for Fire Protection Program changes that may be made without prior NRC approval. One of the criteria for such a change is that the risk increase resulting from the change is less than $1 \times 10–7$/year (yr) for core damage frequency and less than $1 \times 10–8$/yr for large early release frequency. The change is to support replacement of the currently installed RCP seals with the Framatome RCP hydrostatic seal package equipped with the passive shutdown seal.
Public Comments Received as to Proposed NSHC (Yes/No).	No.
NextEra Energy Point Beach, LLC; Point Beach Nuclear Plant, Units 1 and 2; Manitowoc County, WI	
Docket Nos	50–266, 50–301.
Amendment Date	January 23, 2024.
ADAMS Accession No	ML23352A275.
Amendment Nos	274 (Unit 1), 276 (Unit 2).
Brief Description of Amendments	The amendments revised Technical Specification (TS) 5.5.17, ''Pre-Stressed Concrete Containment Tendon Surveillance Program,'' to replace the reference to Regulatory Guide 1.35, ''Inservice Inspection of Ungrouted Tendons in Prestressed Concrete Containments,'' with a reference to Section XI, Subsection IWL of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code. Additionally, the provisions of Surveillance Requirement 3.0.2 in TS 5.5.17 were also deleted by the license amendment.
Public Comments Received as to Proposed NSHC (Yes/No).	No.
Northern States Power Company—Minnesota; Prairie Island Nuclear Generating Plant, Units 1 and 2; Goodhue County, MN	
Docket Nos	50–282, 50–306.
Amendment Date	January 17, 2024.
ADAMS Accession No	ML23356A003.
Amendment Nos	243 (Unit 1), 231 (Unit 2).
Brief Description of Amendments	The amendments revised Technical Specification 5.6.6, ''Reactor Coolant System (RCS) Pressure and Temperature Limits Report (PTLR),'' to replace the current PTLR method with more recent analytical methods and remove a reference to an American Society of Mechanical Engineers Code Case.
Public Comments Received as to Proposed NSHC (Yes/No).	No.
PSEG Nuclear LLC; Hope Creek Generating Station; Salem County, NJ	
Docket No	50–354.
Amendment Date	January 16, 2024.
ADAMS Accession No	ML23341A137.
Amendment No	235.
Brief Description of Amendment	The amendment modified the operation of safety-related heating, ventilation, and air conditioning (HVAC) trains as described in the updated final safety analysis report for Hope Creek. The change modified a portion of the trip and standby start logic for the safety-related HVAC trains from an automatic function to a manual operator action.
Public Comments Received as to Proposed NSHC (Yes/No).	No.
Southern Nuclear Operating Company, Inc.; Vogtle Electric Generating Plant, Unit 4; Burke County, GA	
Docket No	52–026.
Amendment Date	January 17, 2024.
ADAMS Accession No	ML23279A004.
Amendment No	194.

LICENSE AMENDMENT ISSUANCES—Continued

Brief Description of Amendment	The amendment removed Appendix C, ''Inspections, Tests, Analyses, and Acceptance Criteria'' (ITAAC) in its entirety from the Combined Operating License (COL) along with specific references to Appendix C within license conditions contained in the COL. In addition, the amendment deleted license conditions 2.D(2)(d) and 2.D(3)(b) that reference Appendix C. The staff made its 10 CFR 52.103(g) finding for Vogtle Unit 4 on July 28, 2023. The regulations in 10 CFR 52.103(h) and 10 CFR part 52, appendix D, IX.B.3 state that ITAAC are no longer requirements following the 10 CFR 52.103(g) finding. No ITAAC listed in Appendix C to COL NPF–92 are the subject of a § 52.103(a) hearing. Thus, all Vogtle Unit 4 ITAAC expired upon the making of the 10 CFR 52.103(g) finding.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Tennessee Valley Authority; Browns Ferry Nuclear Plant, Units 1, 2, and 3; Limestone County, AL

Docket Nos	50–259, 50–260, 50–296.
Amendment Date	January 3, 2024.
ADAMS Accession No	ML23319A199.
Amendment Nos	333 (Unit 1), 356 (Unit 2), 316 (Unit 3).
Brief Description of Amendments	The amendments revised Browns Ferry Nuclear Plant, Units 1, 2, and 3 Technical Specification Surveillance Requirements 3.4.3.2 and 3.5.1.11 by supplementing the current requirement to verify the safety relief valves and automatic depressurization valves, respectively, open when manually actuated with an alternate requirement that demonstrates the valves are capable of being opened in accordance with the inservice testing program (IST) and revising the frequency to conform with the IST.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Tennessee Valley Authority; Sequoyah Nuclear Plant, Units 1 and 2; Hamilton County, TN; Tennessee Valley Authority; Watts Bar Nuclear Plant, Units 1 and 2; Rhea County, TN

Docket Nos	50–327, 50–328, 50–390, 50–391.
Amendment Date	January 31, 2024.
ADAMS Accession No	ML23319A245.
Amendment Nos	Sequoyah 366 (Unit 1), 360 (Unit 2); Watts Bar 164 (Unit 1), 71 (Unit 2).
Brief Description of Amendments	The amendments revised Sequoyah Nuclear Plant, Units 1 and 2, and the Watts Bar Nuclear Plant, Units 1 and 2 technical specifications (TSs) to adopt Technical Specifications Task Force (TSTF) Traveler TSTF–567–A, Revision 1, ''Add Containment Sump TS to Address GSI [Generic Safety Issue]—191 Issues,'' by adding a new TS 3.6.16, ''Containment Sump,'' and adding an Action to address the condition of the containment sump made inoperable due to containment accident generated and transported debris exceeding the analyzed limits. The action provided time to correct or evaluate the condition in lieu of an immediate plant shutdown.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Union Electric Company; Callaway Plant, Unit No. 1; Callaway County, MO

Docket No	50–483.
Amendment Date	January 18, 2024.
ADAMS Accession No	ML23353A171.
Amendment No	237.
Brief Description of Amendment	The amendment revised the Callaway Plant Licensing Basis (i.e., the final safety analysis report and technical specifications (TSs)), to allow use of one train of the normal, non-safety-related service water system to solely provide cooling water support for one of two redundant trains of TS-required equipment when both equipment trains are required to be operable during cold shutdown/refueling conditions. The supported equipment/systems affected by the proposed change are the residual heat removal system and control room air conditioning system, as applicable during Modes 5 and 6. The applicable/affected TS limiting conditions for operation are TS 3.4.8, ''RCS [Reactor Coolant System] Loops—Mode 5, Loops Not Filled''; TS 3.7.11, ''Control Room Air Conditioning System (CRACS)''; and TS 3.9.6, ''Residual Heat Removal (RHR) and Coolant Circulation—Low Water Level.''
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Union Electric Company; Callaway Plant, Unit No. 1; Callaway County, MO

Docket No	50–483.
Amendment Date	January 11, 2024.
ADAMS Accession No	ML23347A121.
Amendment No	236.

LICENSE AMENDMENT ISSUANCES—Continued

Brief Description of Amendment	The amendment revised Technical Specification (TS) 3.8.3, ''Diesel Fuel Oil, Lube Oil, and Starting Air,'' Surveillance Requirement (SR) 3.8.3.1 (verification of fuel oil storage tank volume), and SR 3.8.3.2 (verification of lube oil inventory volume), by removing the current stored diesel fuel oil and lube oil numerical volume requirements and replacing them with duration-based diesel operating time requirements, consistent with Technical Specifications Task Force (TSTF) Traveler TSTF–501, Revision 1, ''Relocate Stored Fuel Oil and Lube Oil Volume Values to Licensee Control,'' dated February 20, 2009 (ML090510686).
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Virginia Electric and Power Company; Surry Power Station, Units 1 and 2; Surry County, VA

Docket Nos	50–280, 50–281.
Amendment Date	January 18, 2024.
ADAMS Accession No	ML23312A192.
Amendment Nos	316 (Unit 1), 316 (Unit 2).
Brief Description of Amendments	The amendments applied a risk-informed approach to demonstrate the fuel handling trolley support structure, as designed, meets the intent of a tornado resistant structure under Surry Power Station's current licensing basis considering a maximum tornado wind speed.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

IV. Previously Published Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notice was previously published as separate individual notice. It was published as an individual notice either because time did not allow the Commission to wait for this monthly notice or because the action involved exigent circumstances. It is repeated here because the monthly notice lists all amendments issued or proposed to be issued involving NSHC.

For details, including the applicable notice period, see the individual notice in the **Federal Register** on the day and page cited.

LICENSE AMENDMENT REQUEST—REPEAT OF INDIVIDUAL **Federal Register** NOTICE

Wolf Creek Nuclear Operating Corporation; Wolf Creek Generating Station, Unit 1; Coffey County, KS

Docket No	50–482.
Application Date	January 18, 2024.
ADAMS Accession No	ML24018A248.
Brief Description of Amendment	The proposed amendment would modify the implementation date of License Amendment No. 238 for Wolf Creek Generating Station, Unit 1.
Date & Cite of **Federal Register** Individual Notice.	Published January 26, 2024; 89 FR 5267.
Expiration Dates for Public Comments & Hearing Requests.	February 26, 2024 (Public Comments); March 26, 2024 (Hearing Requests).

Dated: February 12, 2024.

For the Nuclear Regulatory Commission.

Bo M. Pham,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2024–03243 Filed 2–16–24; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2024–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of February 19, 26, and March 4, 11, 18, 25, 2024. The schedule for Commission meetings is subject to change on short notice. The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

PLACE: The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

STATUS: Public and closed.

Members of the public may request to receive the information in these notices electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by email at *Betty.Thweatt@nrc.gov* or *Samantha.Miklaszewski@nrc.gov.*

MATTERS TO BE CONSIDERED:

Week of February 19, 2024

Thursday, February 22, 2024

8:55 a.m. Affirmation Session (Public Meeting) (Tentative); STP Nuclear

Operating Company, Constellation Energy Generation, LLC, and NRG South Texas LP (South Texas Project, Units 1 and 2); Motion to Dismiss Application and Petition for Hearing in Indirect License Transfer (Tentative) (Contact: Wesley Held: 301–287–3591)

Additional Information: The meeting will be held in the Commissioners' Hearing Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the web address—*https://video.nrc.gov/.*

Thursday, February 22, 2024

9:00 a.m. Update on Research and Test Reactors Regulatory Program (Public Meeting); (Contact: Wesley Deschaine: 404–997–5301)

Additional Information: The meeting will be held in the Commissioners' Hearing Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the web address—*https://video.nrc.gov/.*

Thursday, February 22, 2024

2:00 p.m. Management and Personnel Issues (Closed Ex. 2)

Week of February 26, 2024—Tentative

There are no meetings scheduled for the week of February 26, 2024.

Week of March 4, 2024—Tentative

There are no meetings scheduled for the week of March 4, 2024.

Week of March 11, 2024—Tentative

There are no meetings scheduled for the week of March 11, 2024.

Week of March 18, 2024—Tentative

There are no meetings scheduled for the week of March 18, 2024.

Week of March 25, 2024—Tentative

There are no meetings scheduled for the week of March 25, 2024.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Wesley Held at 301–287–3591 or via email at *Wesley.Held@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: February 15, 2024.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2024–03525 Filed 2–15–24; 4:15 pm]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Request to Disability Annuitant for Information on Physical Condition and Employment, RI 30–1, 3206–0143

AGENCY: Office of Personnel Management.

ACTION: 30-Day notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Office of Personnel Management (OPM) is proposing an extension to a currently approved information collection, OMB Control Number, 3206–0143: Request to Disability Annuitant for Information on Physical Condition and Employment, RI 30–1.

DATES: Comments are encouraged and will be accepted until March 21, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection request by selecting ''Office of Personnel Management'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox.

FOR FURTHER INFORMATION CONTACT: For specific questions related to this information collection activity, please contact: Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910 or via telephone at (202) 936–0401.

SUPPLEMENTARY INFORMATION: OPM, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the public with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Agency assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Agency's information collection requirements and provide the requested data in the desired format. OPM is soliciting comments on the proposed information collection request (ICR) that is described below. The Agency is especially interested in public comment addressing the following issues: (1) whether this collection is necessary for the proper functions of the Agency; (2) whether this information will be processed and used in a timely manner; (3) the accuracy of the burden estimate; (4) ways the Agency can enhance the quality, utility, and clarity of the information to be collected; and (5) ways the Agency can minimize the burden of this collection on the respondents, including through the use of information technology. Written comments received in response to this notice will be considered public records.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Request to Disability Annuitant for Information on Physical Condition and Employment.

OMB Number: 3206–0143.

Affected Public: Individuals or Households.

Number of Respondents: 8,000.

Estimated Time per Respondent: 60 minutes.

Total Burden Hours: 8,000.

Office of Personnel Management.

Kayyonne Marston,

Federal Register Liaison.

[FR Doc. 2024–03380 Filed 2–16–24; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Application for Refund of Retirement Deductions (CSRS)—SF 2802 and Current/Former Spouse's Notification for Refund of Retirement Deductions Under CSRS—SF 2802A, 3206–0128

AGENCY: Office of Personnel Management.

ACTION: 30-Day notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Office of Personnel Management (OPM) is proposing an extension to a currently approved information collection, OMB Control Number, 3206–0128: SF 2802 (Application for Refund of Retirement Deductions: CSRS) and SF 2802A (Notification of Application for Refund of Retirement Deductions Under CSRS).

DATES: Comments are encouraged and will be accepted until March 21, 2024.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection request by selecting ''Office of Personnel

Management'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox.

FOR FURTHER INFORMATION CONTACT: For specific questions related to this information collection activity, please contact: Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *RSPublicationsTeam@opm.gov* or faxed to (202) 606–0910 or via telephone at (202) 936–0401.

SUPPLEMENTARY INFORMATION: OPM, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the public with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Agency assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Agency's information collection requirements and provide the requested data in the desired format. OPM is soliciting comments on the proposed information collection request (ICR) that is described below. The Agency is especially interested in public comment addressing the following issues: (1) whether this collection is necessary for the proper functions of the Agency; (2) whether this information will be processed and used in a timely manner; (3) the accuracy of the burden estimate; (4) ways the Agency can enhance the quality, utility, and clarity of the information to be collected; and (5) ways the Agency can minimize the burden of this collection on the respondents, including through the use of information technology. Written comments received in response to this notice will be considered public records.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Application for Refund of Retirement Deductions (CSRS) and Current/Former Spouse's Notification of Application for Refund of Retirement Deductions under CSRS.

OMB Number: 3206–0128.

Affected Public: Individuals or Households.

Number of Respondents: 3,741 (SF 2802) and 3,389 (SF 2802A).

Estimated Time per Respondent: 60 minutes (SF 2802) and 15 minutes (SF 2802A).

Total Burden Hours: 4,588.

Office of Personnel Management.

Kayyonne Marston,

Federal Register Liaison.

[FR Doc. 2024–03379 Filed 2–16–24; 8:45 am]

BILLING CODE 6325–38–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99527; File No. SR–PEARL–2024–07]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Pearl Options Fee Schedule for Purge Ports

February 13, 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 January 31, 2024, MIAX PEARL, LLC (''MIAX Pearl'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the MIAX Pearl Options Exchange Fee Schedule (the ''Fee Schedule'') to amend fees for MIAX Express Network (''MEO'')[3] Purge Ports (''Purge Ports'').[4]

The text of the proposed rule change is available on the Exchange's website at *https://www.miaxglobal.com/markets/us-options/pearl-options/rule-filings* at MIAX Pearl's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the fees for Purge Ports, which is a function enabling the Exchange's two types of Members,[5] Market Makers[6] and Electronic Exchange Members[7] (''EEMs''), to cancel all open orders or a subset of open orders through a single cancel message. The Exchange currently provides Members the option to purchase Purge Ports to assist in their quoting activity. Purge Ports provide Members with the ability to send purge messages to the Exchange System.[8] Purge Ports are not capable of sending or receiving any other type of messages or information. The use of Purge Ports is completely optional and no rule or regulation requires that a Market Maker utilize them.

The Exchange initially filed the proposal on September 29, 2023 (SR–PEARL–2023–52) (the ''Initial Proposal'').[9] On November 22, 2023, the Exchange withdrew the Initial Proposal and replaced with a revised filing (SR–PEARL–2023–65) (the ''Second Proposal'').[10] On January 31, 2024, the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ''MEO Interface'' or ''MEO'' means a binary order interface for certain order types as set forth in Rule 516 into the MIAX Pearl System. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[4] The proposed fee change is based on a recent proposal by Nasdaq Phlx LLC (''Phlx'') to adopt fees for purge ports. *See* Securities Exchange Act Release No. 97825 (June 30, 2023), 88 FR 43405 (July 7, 2023) (SR–Phlx–2023–28).

[5] The term ''Member'' means an individual or organization that is registered with the Exchange pursuant to Chapter II of Exchange Rules for purposes of trading on the Exchange as an ''Electronic Exchange Member'' or ''Market Maker.'' Members are deemed ''members'' under the Exchange Act. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[6] The term ''Market Maker'' or ''MM'' means a Member registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter VI of the Exchange Rules. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[7] The term ''Electronic Exchange Member'' or ''EEM'' means the holder of a Trading Permit who is a Member representing as agent Public Customer Orders or Non-Customer Orders on the Exchange and those non-Market Maker Members conducting proprietary trading. Electronic Exchange Members are deemed ''members'' under the Exchange Act. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[8] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[9] *See* Securities Exchange Act Release No. 98733 (October 12, 2023), 88 FR 71907 (October 18, 2023) (SR–PEARL–2023–52).

[10] *See* Securities Exchange Act Release No. 99090 (December 5, 2023), 88 FR 86193 (December 12, 2023) (SR–PEARL–2023–65).

Exchange withdrew the Second Proposal and replaced it with this further revised filing (the ''Third Proposal'') (SR–PEARL–2024–07).

The Exchange is including a cost analysis in this filing to justify the proposed fees. As described more fully below, the cost analysis includes, among other things, descriptions of how the Exchange allocated costs among it and its affiliated exchanges for similar proposed fee changes (separately between MIAX [11] and MIAX Emerald,[12] collectively referred to herein as the ''affiliated markets''), to ensure no cost was allocated more than once, as well as detail supporting its cost allocation processes and explanations as to why a cost allocation in this proposal may differ from the same cost allocation in similar proposals submitted by the affiliated markets. The proposed fees are intended to cover the Exchange's cost of providing Purge Ports with a reasonable mark-up over those costs.

* * * * *

Purge Port Fee Change

Unlike other options exchanges that charge fees for Purge Ports on a per port basis,[13] the Exchange assesses a flat fee of $750 per month, regardless of the number of Purge Ports utilized by a Market Maker. Currently, a Market Maker may request and be allocated two (2) Purge Ports per Matching Engine [14] to which it connects and not all Members connect to all of the Exchange's Matching Engines.

The Exchange now proposes to amend the fee for Purge Ports to align more closely with other exchanges who charge on a per port basis by providing two (2) Purge Ports per Matching Engine for a monthly flat fee of $600 per month per Matching Engine. The only difference with a per port structure is that Members receive two (2) Purge Ports per Matching Engine for the same proposed monthly fee, rather than being charged a separate fee for each Purge Port. The Exchange proposes to charge the proposed fee for Purge Ports per Matching Engine, instead on a per Purge Port basis, due to its System architecture which provides two (2) Purge Ports per Matching Engine for redundancy purposes. In addition, the proposed fee is lower than the comparable fee charged by competing exchanges that also charge on a per port basis, notwithstanding that the Exchange is providing up to two (2) Purge Ports for that same lower fee.[15]

Similar to a per port charge, Members are able to select the Matching Engines that they want to connect to,[16] based on the business needs of each Market Maker, and pay the applicable fee based on the number of Matching Engines and ports utilized. The Exchange believes that the proposed fee provides Members with flexibility to control their Purge Port costs based on the number of Matching Engines each Marker Maker elects to connect to based on each Market Maker's business needs.

* * * * *

A logical port represents a port established by the Exchange within the Exchange's System for trading and billing purposes. Each logical port grants a Member the ability to accomplish a specific function, such as order entry, order cancellation, access to execution reports, and other administrative information.

Purge Ports are designed to assist Members [17] in the management of, and risk control over, their orders, particularly if the firm is dealing with a large number of securities. For example, if a Market Maker detects market indications that may influence the execution potential of their orders, the Market Maker may use Purge Ports to reduce uncertainty and to manage risk by purging all orders in a number of securities. This allows Members to seamlessly avoid unintended executions, while continuing to evaluate the market, their positions, and their risk levels. Purge Ports are used by Members that conduct business activity that exposes them to a large amount of risk across a number of securities. Purge Ports enable Members to cancel all open orders, or a subset of open orders through a single cancel message. The Exchange notes that Purge Ports increase efficiency of already existing functionality enabling the cancellation of orders.

The Exchange operates highly performant systems with significant throughput and determinism which allows participants to enter, update and cancel orders at high rates. Members may currently cancel individual orders through the existing functionality, such as through the use of a mass cancel message by which a Market Maker may request that the Exchange remove all or a subset of its quotations and block all or a subset of its new inbound quotations.[18] Other than Purge Ports being a dedicated line for cancelling quotations, Purge Ports operate in the same manner as a mass cancel message being sent over a different type of port. For example, like Purge Ports, mass cancellations sent over a logical port may be done at either the firm or MPID level. As a result, Members can currently cancel orders in rapid succession across their existing logical ports [19] or through a single cancel message, all open orders or a subset of open orders.

Similarly, Members may also use cancel-on-disconnect control when they experience a disruption in connection to the Exchange to automatically cancel all orders, as configured or instructed by the Member or Market Maker.[20] In addition, the Exchange already provides similar ability to mass cancel orders through the Exchange's risk controls, which are offered at no charge and enables Members to establish pre-determined levels of risk exposure, and can be used to cancel all open orders.[21] Accordingly, the Exchange believes that the Purge Ports provide an efficient option as an alternative to already available services and enhance the Member's ability to manage their risk.

The Exchange believes that market participants benefit from a dedicated purge mechanism for specific Members and to the market as a whole. Members will have the benefit of efficient risk

[11] The term ''MIAX'' means Miami International Securities Exchange, LLC. *See* Exchange Rule 100.

[12] The term ''MIAX Emerald'' means MIAX Emerald, LLC. *See* Exchange Rule 100.

[13] *See* Cboe BXZ Exchange, Inc. (''BZX'') Options Fee Schedule, Options Logical Port Fees, Purge Ports ($750 per purge port per month); Cboe EDGX Exchange, Inc. (''EDGX'') Options Fee Schedule, Options Logical Port Fees, Purge Ports ($750 per purge port per month); Cboe Exchange, Inc. (''Cboe'') Fee Schedule ($850 per purge port per month). *See also* Nasdaq GEMX, Options 7, Pricing Schedule, Section 6.C.(3). Nasdaq GEMX, LLC (''Nasdaq GEMX'') assesses its members $1,250 per SQF Purge Port per month, subject to a monthly cap of $17,500 for SQF Purge Ports and SQF Ports, applicable to market makers. *See also* Securities Exchange Act Release No. 97825 (June 30, 2023), 88 FR 43405 (July 7, 2023) (SR-Phlx-2023–28).

[14] A Matching Engine is a part of the Exchange's electronic system that processes options quotes and trades on a symbol-by- symbol basis. Some matching engines will process option classes with multiple root symbols, and other matching engines will be dedicated to one single option root symbol (for example, options on SPY will be processed by one single matching engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated matching engine. A particular root symbol may not be assigned to multiple matching engines. *See* the Definitions Section of the Fee Schedule.

[15] *See supra* note 13.

[16] The Exchange notes that each Matching Engine corresponds to a specified group of symbols. Certain Market Makers choose to only quote in certain symbols while other Market Makers choose to quote the entire market.

[17] Members seeking to become registered as a Market Maker must comply with the applicable requirements of Chapter VI of the Exchange's Rules.

[18] *See* Exchange Rule 519C(a) and (b).

[19] Current Exchange port functionality supports cancelation rates that exceed one thousand messages per second and the Exchange's research indicates that certain market participants rely on such functionality and at times utilize such cancelation rates.

[20] *See* Exchange Rule 519C(c).

[21] *See* Exchange Rule 532.

management and purge tools. The market will benefit from potential increased quoting and liquidity as Members may use Purge Ports to manage their risk more robustly. Only Members that request Purge Ports would be subject to the proposed fees, and other Members can continue to operate in exactly the same manner as they do today without dedicated Purge Ports, but with the additional purging capabilities described above.

Implementation Date

The proposed fees are effective beginning February 1, 2024.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[22] in general, and furthers the objectives of Section 6(b)(5) of the Act,[23] in particular, in that it is not designed to permit unfair discrimination among customers, brokers, or dealers. The Exchange also believes that its proposed fee is consistent with Section 6(b)(4) of the Act [24] because it represents an equitable allocation of reasonable dues, fees and other charges among market participants.

Cost Analysis

In general, the Exchange believes that exchanges, in setting fees of all types, should meet very high standards of transparency to demonstrate why each new fee or fee increase meets the Exchange Act requirements that fees be reasonable, equitably allocated, not unfairly discriminatory, and not create an undue burden on competition among members and markets. In particular, the Exchange believes that each exchange should take extra care to be able to demonstrate that these fees are based on its costs and reasonable business needs.

In proposing to charge fees for port services, the Exchange is especially diligent in assessing those fees in a transparent way against its own aggregate costs of providing the related service, and in carefully and transparently assessing the impact on Members—both generally and in relation to other Members, *i.e.,* to assure the fee will not create a financial burden on any participant and will not have an undue impact in particular on smaller Members and competition among Members in general. The Exchange believes that this level of diligence and transparency is called for by the requirements of Section 19(b)(1) under the Act,[25] and Rule 19b–4 thereunder,[26] with respect to the types of information exchanges should provide when filing fee changes, and Section 6(b) of the Act,[27] which requires, among other things, that exchange fees be reasonable and equitably allocated,[28] not designed to permit unfair discrimination,[29] and that they not impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[30] The Exchange reiterates that the legacy exchanges with whom the Exchange vigorously competes for order flow and market share, were not subject to any such diligence or transparency in setting their baseline non-transaction fees, most of which were put in place before the Staff Guidance.[31]

As detailed below, the Exchange recently calculated its aggregate annual costs for providing Purge Ports to be $1,017,523 (or approximately $84,793 per month, rounded to the nearest dollar when dividing the annual cost by 12 months). In order to cover the aggregate costs of providing Purge Ports to its Market Makers going forward and to make a modest profit, as described below, the Exchange proposes to modify its Fee Schedule to charge a fee of $300 per Matching Engine for Purge Ports.

In 2019, the Exchange completed a study of its aggregate costs to produce market data and connectivity (the ''Cost Analysis'').[32] The Cost Analysis required a detailed analysis of the Exchange's aggregate baseline costs, including a determination and allocation of costs for core services provided by the Exchange—transaction execution, market data, membership services, physical connectivity, and port access (which provide order entry, cancellation and modification functionality, risk and purge functionality, the ability to receive drop copies, and other functionality). The Exchange separately divided its costs between those costs necessary to deliver each of these core services, including infrastructure, software, human resources (*i.e.,* personnel), and certain general and administrative expenses (''cost drivers''). The Exchange recently update its Cost Analysis using its 2024 estimated budget as described below.

As an initial step, the Exchange determined the total cost for the Exchange and the affiliated markets for each cost driver as part of its 2024 budget review process. The 2024 budget review is a company-wide process that occurs over the course of many months, includes meetings among senior management, department heads, and the Finance Team. Each department head is required to send a ''bottom up'' budget to the Finance Team allocating costs at the profit and loss account and vendor levels for the Exchange and its affiliated markets based on a number of factors, including server counts, additional hardware and software utilization, current or anticipated functional or non-functional development projects, capacity needs, end-of-life or end-of-service intervals, number of members, market model (*e.g.,* price time or pro-rata, simple only or simple and complex markets, auction functionality, etc.), which may impact message traffic, individual system architectures that impact platform size,[33] storage needs, dedicated infrastructure versus shared infrastructure allocated per platform based on the resources required to support each platform, number of available connections, and employees allocated time. All of these factors result in different allocation percentages among the Exchange and its affiliated markets, *i.e.,* the different percentages of the overall cost driver allocated to the Exchange and its affiliated markets will cause the dollar amount of the overall cost allocated among the Exchange and its affiliated markets to also differ. Because the Exchange's parent company currently owns and operates four separate and distinct marketplaces, the Exchange must determine the costs associated with each actual market—as opposed to the Exchange's parent company simply concluding that all costs drivers are the same at each individual marketplace and dividing total cost by four (4) (evenly for each marketplace). Rather, the Exchange's parent company determines an accurate cost for each marketplace, which results in different allocations and amounts across exchanges for the same cost drivers, due to the unique factors of each marketplace as described above. This allocation methodology also

[22] 15 U.S.C. 78f(b).

[23] 15 U.S.C. 78f(b)(5).

[24] 15 U.S.C. 78f(b)(4).

[25] 15 U.S.C. 78s(b)(1).

[26] 17 CFR 240.19b–4.

[27] 15 U.S.C. 78f(b).

[28] 15 U.S.C. 78f(b)(4).

[29] 15 U.S.C. 78f(b)(5).

[30] 15 U.S.C. 78f(b)(8).

[31] *See* Staff Guidance on SRO Rule Filings Relating to Fees (May 21, 2019), *available at https://www.sec.gov/tm/staff-guidance-sro-rule-filings-fees (the ''Staff Guidance'').*

[32] The Exchange frequently updates it Cost Analysis as strategic initiatives change, costs increase or decrease, and market participant needs and trading activity changes. The Exchange's most recent Cost Analysis was conducted ahead of this filing.

[33] For example, MIAX maintains 24 matching engines, MIAX Pearl Options maintains 12 matching engines, MIAX Pearl Equities maintains 24 matching engines, and MIAX Emerald maintains 12 matching engines.

ensures that no cost would be allocated twice or double-counted between the Exchange and its affiliated markets. The Finance Team then consolidates the budget and sends it to senior management, including the Chief Financial Officer and Chief Executive Officer, for review and approval. Next, the budget is presented to the Board of Directors and the Finance and Audit Committees for each exchange for their approval. The above steps encompass the first step of the cost allocation process.

The next step involves determining what portion of the cost allocated to the Exchange pursuant to the above methodology is to be allocated to each core service, *e.g.,* connectivity and ports, market data, and transaction services. The Exchange and its affiliated markets adopted an allocation methodology with thoughtful and consistently applied principles to guide how much of a particular cost amount allocated to the Exchange should be allocated within the Exchange to each core service. This is the final step in the cost allocation process and is applied to each of the cost drivers set forth below.

This next level of the allocation methodology at the individual exchange level also took into account factors similar to those set forth under the first step of the allocation methodology process described above, to determine the appropriate allocation to connectivity or market data versus allocations for other services. This allocation methodology was developed through an assessment of costs with senior management intimately familiar with each area of the Exchange's operations. After adopting this allocation methodology, the Exchange then applied an allocation of each cost driver to each core service, resulting in the cost allocations described below. Each of the below cost allocations is unique to the Exchange and represents a percentage of overall cost that was allocated to the Exchange pursuant to the initial allocation described above.

By allocating segmented costs to each core service, the Exchange was able to estimate by core service the potential margin it might earn based on different fee models. The Exchange notes that as a non-listing venue it has five primary sources of revenue that it can potentially use to fund its operations: transaction fees, fees for connectivity and port services, membership fees, regulatory fees, and market data fees. Accordingly, the Exchange must cover its expenses from these five primary sources of revenue. The Exchange also notes that as a general matter each of these sources of revenue is based on services that are interdependent. For instance, the Exchange's system for executing transactions is dependent on physical hardware and connectivity; only Members and parties that they sponsor to participate directly on the Exchange may submit orders to the Exchange; many Members (but not all) consume market data from the Exchange in order to trade on the Exchange; and, the Exchange consumes market data from external sources in order to comply with regulatory obligations. Accordingly, given this interdependence, the allocation of costs to each service or revenue source required judgment of the Exchange and was weighted based on estimates of the Exchange that the Exchange believes are reasonable, as set forth below. While there is no standardized and generally accepted methodology for the allocation of an exchange's costs, the Exchange's methodology is the result of an extensive review and analysis and will be consistently applied going forward for any other potential fee proposals. In the absence of the Commission attempting to specify a methodology for the allocation of exchanges' interdependent costs, the Exchange will continue to be left with its best efforts to attempt to conduct such an allocation in a thoughtful and reasonable manner.

Through the Exchange's extensive updated Cost Analysis, which was again recently further refined, the Exchange analyzed every expense item in the Exchange's general expense ledger to determine whether each such expense relates to the provision of connectivity and port services, and, if such expense did so relate, what portion (or percentage) of such expense actually supports the provision of Purge Port services, and thus bears a relationship that is, ''in nature and closeness,'' directly related to Purge Port services. In turn, the Exchange allocated certain costs more to physical connectivity and others to ports, while certain costs were only allocated to such services at a very low percentage or not at all, using consistent allocation methodologies as described above. Based on this analysis, the Exchange estimates that the aggregate monthly cost to provide Purge Port services is $84,793, as further detailed below.

Costs Related to Offering Purge Ports

The following chart details the individual line-item costs considered by the Exchange to be related to offering Purge Ports as well as the percentage of the Exchange's overall costs that such costs represent for each cost driver (*e.g.,* as set forth below, the Exchange allocated approximately 3.5% of its overall Human Resources cost to offering Purge Ports).

Cost drivers	Allocated annual cost [a]	Allocated monthly cost [b]	% of all
Human Resources	$776,560	$64,713	3.5
Connectivity (external fees, cabling, switches, etc.)	521	43	0.6
Internet Services and External Market Data	2,949	246	0.6
Data Center	21,359	1,780	1.4
Hardware and Software Maintenance and Licenses	11,069	922	0.6
Depreciation	67,682	5,640	1.7
Allocated Shared Expenses	137,383	11,449	1.5
Total	1,017,523	84,793	2.6

[a] The Annual Cost includes figures rounded to the nearest dollar.
[b] The Monthly Cost was determined by dividing the Annual Cost for each line item by twelve (12) months and rounding up or down to the nearest dollar.

Below are additional details regarding each of the line-item costs considered by the Exchange to be related to offering Purge Ports. While some costs were attempted to be allocated as equally as possible among the Exchange and its affiliated markets, the Exchange notes that some of its cost allocation percentages for certain cost drivers differ when compared to the same cost drivers for the Exchange's affiliated markets in their similar proposed fee changes for Purge Ports. This is because the Exchange's cost allocation methodology utilizes the actual

projected costs of the Exchange (which are specific to the Exchange and are independent of the costs projected and utilized by the Exchange's affiliated markets) to determine its actual costs, which may vary across the Exchange and its affiliated markets based on factors that are unique to each marketplace. The Exchange provides additional explanation below (including the reason for the deviation) for the significant differences.

Human Resources

The Exchange notes that it and its affiliated markets anticipate that by year-end 2024, there will be 289 employees (excluding employees at non-options/equities exchange subsidiaries of Miami International Holdings, Inc. (''MIH''), the holding company of the Exchange and its affiliated markets), and each department leader has direct knowledge of the time spent by each employee with respect to the various tasks necessary to operate the Exchange. Specifically, twice a year, and as needed with additional new hires and new project initiatives, in consultation with employees as needed, managers and department heads assign a percentage of time to every employee and then allocate that time amongst the Exchange and its affiliated markets to determine each market's individual Human Resources expense. Then, managers and department heads assign a percentage of each employee's time allocated to the Exchange into buckets including network connectivity, ports, market data, and other exchange services. This process ensures that every employee is 100% allocated, ensuring there is no double counting between the Exchange and its affiliated markets.

For personnel costs (Human Resources), the Exchange calculated an allocation of employee time for employees whose functions include providing and maintaining Purge Ports and performance thereof (primarily the Exchange's network infrastructure team, which spends most of their time performing functions necessary to provide port and connectivity services). As described more fully above, the Exchange's parent company allocates costs to the Exchange and its affiliated markets and then a portion of the Human Resources costs allocated to the Exchange is then allocated to port services. From that portion allocated to the Exchange that applied to ports, the Exchange then allocated a weighted average of 5.4% of each employee's time from the above group to Purge Ports.

The Exchange also allocated Human Resources costs to provide Purge Ports to a limited subset of personnel with ancillary functions related to establishing and maintaining such ports (such as information security, sales, membership, and finance personnel). The Exchange allocated cost on an employee-by-employee basis (*i.e.,* only including those personnel who support functions related to providing Purge Ports) and then applied a smaller allocation to such employees' time to Purge Ports (2.4%). This other group of personnel with a smaller allocation of Human Resources costs also have a direct nexus to Purge Ports, whether it is a sales person selling port services, finance personnel billing for port services or providing budget analysis, or information security ensuring that such ports are secure and adequately defended from an outside intrusion.

The estimates of Human Resources cost were therefore determined by consulting with such department leaders, determining which employees are involved in tasks related to providing Purge Ports, and confirming that the proposed allocations were reasonable based on an understanding of the percentage of time such employees devote to those tasks. This includes personnel from the Exchange departments that are predominately involved in providing Purge Ports: Business Systems Development, Trading Systems Development, Systems Operations and Network Monitoring, Network and Data Center Operations, Listings, Trading Operations, and Project Management. Again, the Exchange allocated 5.4% of each of their employee's time assigned to the Exchange for Purge Ports, as stated above. Employees from these departments perform numerous functions to support Purge Ports, such as the installation, re-location, configuration, and maintenance of Purge Ports and the hardware they access. This hardware includes servers, routers, switches, firewalls, and monitoring devices. These employees also perform software upgrades, vulnerability assessments, remediation and patch installs, equipment configuration and hardening, as well as performance and capacity management. These employees also engage in research and development analysis for equipment and software supporting Purge Ports and design, and support the development and on-going maintenance of internally-developed applications as well as data capture and analysis, and Member and internal Exchange reports related to network and system performance. The above list of employee functions is not exhaustive of all the functions performed by Exchange employees to support Purge Ports, but illustrates the breath of functions those employees perform in support of the above cost and time allocations.

Lastly, the Exchange notes that senior level executives' time was only allocated to the Purge Ports related Human Resources costs to the extent that they are involved in overseeing tasks related to providing Purge Ports. The Human Resources cost was calculated using a blended rate of compensation reflecting salary, equity and bonus compensation, benefits, payroll taxes, and 401(k) matching contributions.

Connectivity (External Fees, Cabling, Switches, etc.)

The Connectivity cost driver includes external fees paid to connect to other exchanges and third parties, cabling and switches required to operate the Exchange. The Connectivity cost driver is more narrowly focused on technology used to complete connections to the Exchange and to connect to external markets. The Exchange notes that its connectivity to external markets vendors is required in order to receive market data to run the Exchange's matching engine and basic operations compliant with existing regulations, primarily Regulation NMS.

The Exchange relies on various connectivity providers for connectivity to the entire U.S. options industry, and infrastructure services for critical components of the network that are necessary to provide and maintain its System Networks and access to its System Networks via 10Gb ULL connectivity. Specifically, the Exchange utilizes connectivity providers to connect to other national securities exchanges and the Options Price Reporting Authority (''OPRA''). The Exchange understands that these service providers provide services to most, if not all, of the other U.S. exchanges and other market participants. Connectivity provided by these service providers is critical to the Exchanges daily operations and performance of its System Networks which includes Purge Ports. Without these services providers, the Exchange would not be able to connect to other national securities exchanges, market data providers or OPRA and, therefore, would not be able to operate and support its System Networks, including Purge Ports. In addition, the connectivity is necessary for the Exchange to notify OPRA and other market participants that an order has been cancelled, and that quotes may have been cancelled as a result of a Member purging quotes via their Purge Port. Also, like other types of ports

offered by the Exchange, Purge Ports leverage the Exchange's existing 10Gb ULL connectivity, which also relies on connectivity to other national securities exchanges and OPRA. The Exchange does not employ a separate fee to cover its connectivity provider expense and recoups that expense, in part, by charging for Purge Ports.

Internet Services and External Market Data

The next cost driver consists of internet services and external market data. Internet services includes third-party service providers that provide the internet, fiber and bandwidth connections between the Exchange's networks, primary and secondary data centers, and office locations in Princeton and Miami. For purposes of Purge Ports, the Exchange also includes a portion of its costs related to external market data. External market data includes fees paid to third parties, including OPRA, to receive and consume market data from other markets. The Exchange includes external market data costs towards Purge Ports because such market data is necessary to offer certain services related to such ports, such as checking for market conditions (*e.g.,* halted securities). External market data is also consumed at the Matching Engine level for, among other things, as validating quotes on entry against the NBBO. Purge Ports are a component of the Matching Engine, and used by market participants to cancel multiple resting quotes within the Matching Engine. While resting, the Exchange uses external market data to manage those quotes, such as preventing trade-throughs, and those quotes are also reported to OPRA for inclusion in this consolidated data stream. The Exchange also must notify OPRA and other market participants that an order has been cancelled, and that quotes may have been cancelled as a result of a Member purging quotes via their Purge Port. Thus, since market data from other exchanges is consumed by the Matching Engine to validate quotes and check market conditions, the Exchange believes it is reasonable to allocate a small amount of such costs to Purge Ports.

For the reasons set forth above, the Exchange believes it is reasonable to allocate a small amount of such costs to Purge Ports since market data from other exchanges is consumed at the Exchange's Purge Port level to validate purge messages and the necessity to cancel a resting quote via a purge message or via some other means.

Data Center

Data Center costs includes an allocation of the costs the Exchange incurs to provide Purge Ports in the third-party data centers where it maintains its equipment as well as related costs for market data to then enter the Exchange's system (the Exchange does not own the Primary Data Center or the Secondary Data Center, but instead, leases space in data centers operated by third parties).

Hardware and Software Maintenance and Licenses

Hardware and Software Licenses includes hardware and software licenses used to operate and monitor physical assets necessary to offer Purge Ports for each Matching Engine of the Exchange.

Depreciation

The vast majority of the software the Exchange uses to provide Ports has been developed in-house and the cost of such development, which takes place over an extended period of time and includes not just development work, but also quality assurance and testing to ensure the software works as intended, is depreciated over time once the software is activated in the production environment. Hardware used to provide Purge Ports includes equipment used for testing and monitoring of order entry infrastructure and other physical equipment the Exchange purchased and is also depreciated over time.

All hardware and software, which also includes assets used for testing and monitoring of order entry infrastructure, were valued at cost, depreciated or leased over periods ranging from three to five years. Thus, the depreciation cost primarily relates to servers necessary to operate the Exchange, some of which is owned by the Exchange and some of which is leased by the Exchange in order to allow efficient periodic technology refreshes. The Exchange allocated 1.9% of all depreciation costs to providing Purge Ports. The Exchange allocated depreciation costs for depreciated software necessary to operate the Exchange because such software is related to the provision of Purge Ports. As with the other allocated costs in the Exchange's updated Cost Analysis, the Depreciation cost driver was therefore narrowly tailored to depreciation related to Purge Ports.

Allocated Shared Expenses

Finally, a portion of general shared expenses was allocated to overall Purge Port costs as without these general shared costs the Exchange would not be able to operate in the manner that it does and provide Purge Ports. The costs included in general shared expenses include general expenses of the Exchange, including office space and office expenses (*e.g.,* occupancy and overhead expenses), utilities, recruiting and training, marketing and advertising costs, professional fees for legal, tax and accounting services (including external and internal audit expenses), and telecommunications costs. The Exchange again notes that the cost of paying directors to serve on its Board of Directors is included in the calculation of Allocated Shared Expenses, and thus a portion of such overall cost amounting to less than 3% of the overall cost for directors was allocated to providing Purge Ports.

Approximate Cost per Purge Port per Month

Based on projected 2024 data, the total monthly cost allocated to Purge Ports of $84,793 was divided by the total number of Matching Engines in which Market Makers used Purge Ports for the month of December 2023, which was 142, resulting in an approximate cost of $597 per Matching Engine per month for Purge Port usage (when rounding to the nearest dollar). The Exchange notes that the flat fee of $600 per month per Matching Engine entitles each Market Maker to two Purge Ports per Matching Engine. The majority of Market Makers are connected to all twenty-four of the Exchange's Matching Engines and utilize Purge Ports on each Matching Engine, except one Market Maker, which only utilizes Purge Ports on three Matching Engines.

Cost Analysis—Additional Discussion

In conducting its Cost Analysis, the Exchange did not allocate any of its expenses in full to any core services (including Purge Ports) and did not double-count any expenses. Instead, as described above, the Exchange allocated applicable cost drivers across its core services and used the same Cost Analysis to form the basis of this proposal. For instance, in calculating the Human Resources expenses to be allocated to Purge Ports based upon the above described methodology, the Exchange has a team of employees dedicated to network infrastructure and with respect to such employees the Exchange allocated network infrastructure personnel with a higher percentage of the cost of such personnel (19.3%) given their focus on functions necessary to provide Ports. The salaries of those same personnel were allocated only 5.4% to Purge Ports and the remaining 94.6% was allocated to connectivity, other port services, transaction services, membership

services and market data. The Exchange did not allocate any other Human Resources expense for providing Purge Ports to any other employee group, outside of a smaller allocation of 2.4% for Purge Ports, of the cost associated with certain specified personnel who work closely with and support network infrastructure personnel. This is because a much wider range of personnel are involved in functions necessary to offer, monitor and maintain Purge Ports but the tasks necessary to do so are not a primary or full-time function.

In total, the Exchange allocated 3.5% of its personnel costs to providing Purge Ports. In turn, the Exchange allocated the remaining 96.5% of its Human Resources expense to membership services, transaction services, connectivity services, other port services and market data. Thus, again, the Exchange's allocations of cost across core services were based on real costs of operating the Exchange and were not double-counted across the core services or their associated revenue streams.

As another example, the Exchange allocated depreciation expense to all core services, including Purge Ports, but in different amounts. The Exchange believes it is reasonable to allocate the identified portion of such expense because such expense includes the actual cost of the computer equipment, such as dedicated servers, computers, laptops, monitors, information security appliances and storage, and network switching infrastructure equipment, including switches and taps that were purchased to operate and support the network. Without this equipment, the Exchange would not be able to operate the network and provide Purge Port services to its Market Makers. However, the Exchange did not allocate all of the depreciation and amortization expense toward the cost of providing Purge Port services, but instead allocated approximately 1.7% of the Exchange's overall depreciation and amortization expense to Purge Ports. The Exchange allocated the remaining depreciation and amortization expense (approximately 98.3%) toward the cost of providing transaction services, membership services, connectivity services, other port services, and market data.

The Exchange notes that its revenue estimates are based on projections across all potential revenue streams and will only be realized to the extent such revenue streams actually produce the revenue estimated. The Exchange does not yet know whether such expectations will be realized. For instance, in order to generate the revenue expected from Purge Ports, the Exchange will have to be successful in retaining existing Market Makers that wish to maintain Purge Ports or in obtaining new Market Makers that will purchase such services. Similarly, the Exchange will have to be successful in retaining a positive net capture on transaction fees in order to realize the anticipated revenue from transaction pricing.

The Exchange notes that the Cost Analysis is based on the Exchange's 2024 fiscal year of operations and projections. It is possible, however, that actual costs may be higher or lower. To the extent the Exchange sees growth in use of connectivity services it will receive additional revenue to offset future cost increases. However, if use of port services is static or decreases, the Exchange might not realize the revenue that it anticipates or needs in order to cover applicable costs. Accordingly, the Exchange is committing to conduct a one-year review after implementation of these fees. The Exchange expects that it may propose to adjust fees at that time, to increase fees in the event that revenues fail to cover costs and a reasonable mark-up of such costs. Similarly, the Exchange may propose to decrease fees in the event that revenue materially exceeds our current projections. In addition, the Exchange will periodically conduct a review to inform its decision making on whether a fee change is appropriate (*e.g.,* to monitor for costs increasing/decreasing or subscribers increasing/decreasing, etc. in ways that suggest the then-current fees are becoming dislocated from the prior cost-based analysis) and would propose to increase fees in the event that revenues fail to cover its costs and a reasonable mark-up, or decrease fees in the event that revenue or the mark-up materially exceeds our current projections. In the event that the Exchange determines to propose a fee change, the results of a timely review, including an updated cost estimate, will be included in the rule filing proposing the fee change. More generally, the Exchange believes that it is appropriate for an exchange to refresh and update information about its relevant costs and revenues in seeking any future changes to fees, and the Exchange commits to do so.

Projected Revenue [34]

The proposed fees will allow the Exchange to cover certain costs incurred by the Exchange associated with providing and maintaining necessary hardware and other network infrastructure as well as network monitoring and support services; without such hardware, infrastructure, monitoring and support the Exchange would be unable to provide port services. Much of the cost relates to monitoring and analysis of data and performance of the network via the subscriber's connection(s). The above cost, namely those associated with hardware, software, and human capital, enable the Exchange to measure network performance with nanosecond granularity. These same costs are also associated with time and money spent seeking to continuously improve the network performance, improving the subscriber's experience, based on monitoring and analysis activity. The Exchange routinely works to improve the performance of the network's hardware and software. The costs associated with maintaining and enhancing a state-of-the-art exchange network is a significant expense for the Exchange, and thus the Exchange believes that it is reasonable and appropriate to help offset those costs by amending fees for Purge Port services. Subscribers, particularly those of Purge Ports, expect the Exchange to provide this level of support so they continue to receive the performance they expect. This differentiates the Exchange from its competitors. As detailed above, the Exchange has five primary sources of revenue that it can potentially use to fund its operations: transaction fees, fees for connectivity services (connections and ports), membership and regulatory fees, and market data fees. Accordingly, the Exchange must cover its expenses from these five primary sources of revenue.

The Exchange's Cost Analysis estimates the annual cost to provide Purge Port services will equal $1,017,523. Based on current Purge Port services usage, the Exchange would generate annual revenue of approximately $1,029,600. The Exchange believes this represents a modest profit of 1.2% when compared to the cost of providing Purge Port services, which could decrease over time.[35]

Based on the above discussion, the Exchange believes that even if the Exchange earns the above revenue or

[34] For purposes of calculating projected 2024 revenue for Purge Ports, the Exchange used revenues for the most recently completed full month.

[35] Assuming the U.S. inflation rate continues at its current rate, the Exchange believes that the projected profit margins in this proposal will decrease; however, the Exchange cannot predict with any certainty whether the U.S. inflation rate will continue at its current rate or its impact on the Exchange's future profits or losses. *See, e.g., https://www.usinflationcalculator.com/inflation/current-inflation-rates/* (last visited January 18, 2024).

incrementally more or less, the proposed fees are fair and reasonable because they will not result in pricing that deviates from that of other exchanges or a supra-competitive profit, when comparing the total expense of the Exchange associated with providing Purge Port services versus the total projected revenue of the Exchange associated with network Purge Port services.

Comparable Fee Filing Without Cost Justification

The Exchange further supports the proposed fee change based on a recent 2023 proposal filed with the Commission by another national securities exchange, Phlx, to adopt fees for purge ports, which the Commission deemed acceptable by not suspending that filing during the applicable 60-day review period.[36] In fact, the same justification Phlx utilized was also used in similar recent proposals to adopt fees for purge ports by two of Phlx's affiliated exchanges.[37] Therefore, the Exchange utilizes the below justification based on this recent Commission precedent from approximately a few months ago.

The Exchange believes that the proposed rule change would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market because offering Members optional service and flexible fee structures which promotes choice, flexibility, efficiency, and competition. The Exchange believes Purge Ports enhance Members' ability to manage orders, which would, in turn, improve their risk controls to the benefit of all market participants. The Exchange believes that Purge Ports foster cooperation and coordination with persons engaged in facilitating transactions in securities because designating Purge Ports for purge messages may encourage better use of such ports. This may, concurrent with the ports that carry orders and other information necessary for market making activities, enable more efficient, as well as fair and reasonable, use of Members' resources. Similar connectivity and functionality is offered by options exchanges, including the Exchange's own affiliated options exchanges, and other equities exchanges.[38] The Exchange believes that proper risk management, including the ability to efficiently cancel multiple orders quickly when necessary, is similarly valuable to firms that trade in the equities market, including Members that have heightened quoting obligations that are not applicable to other market participants.

Purge Ports do not relieve Members of their quoting obligations or firm quote obligations under Regulation NMS Rule 602.[39] Specifically, any interest that is executable against a Member's or Market Maker's orders that is received by the Exchange prior to the time of the removal of orders request will automatically execute. Members that purge their orders will not be relieved of the obligation to provide continuous two-sided orders on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against a Market Maker for failing to meet their continuous quoting obligation each trading day.[40]

The Exchange is not the only exchange to offer this functionality and to charge associated fees.[41] The Exchange believes the proposed fee for Purge Ports is reasonable because it is lower than the fees currently charged by other exchanges for similar port functionality. For example, BZX and EDGX charge a fee of $750 per purge port per month, Cboe charges $850 per purge port per month, Nasdaq GEMX assesses its members $1,250 per SQF Purge Port per month, subject to a monthly cap of $17,500 for SQF Purge Ports and SQF Ports.[42]

The Exchange believes it is reasonable to charge $600 per month for Purge Ports as proposed because such ports were specially developed to allow Members to send a single message to cancel multiple orders, thereby assisting firms in effectively managing risk. The Exchange also believes that a Member that chooses to utilize Purge Ports may, in the future, reduce their need for additional ports by consolidating cancel messages to their dedicated Purge Port and thus freeing up some capacity of the existing logical ports and, therefore, allowing for increased message traffic without paying for additional logical ports. Purge Ports provide the ability to cancel multiple orders with a single message over a dedicated port, and, therefore, may create efficiencies for firms and provide a more efficient solution for them based on their risk management needs. In addition, Purge Port requests may cancel orders submitted over numerous ports and contain added functionality to purge only a subset of these orders. Effective risk management is important both for individual market participants that choose to utilize risk features provided by the Exchange, as well as for the market in general. As a result, the Exchange believes that it is appropriate to charge fees for such functionality as doing so aids in the maintenance of a fair and orderly market.

The Exchange also believes that its ability to set fees for Purge Ports is subject to significant substitution-based forces because Members are able to rely on currently available services both free and those they receive when using existing trading protocols. If the value of the efficiency introduced through the Purge Port functionality is not worth the proposed fees, Members will simply continue to rely on the existing functionality and not pay for Purge Ports. In that regard, Members may currently cancel individual orders through the existing functionality, such as through the use of a mass cancel message by which a Market Maker may request that the Exchange remove all or a subset of its quotations and block all or a subset of its new inbound quotations. Already Members can also cancel orders individually and by utilizing Exchange protocols that allow them to develop proprietary systems that can send cancel messages at a high rate.[43] In addition, the Exchange already provides similar ability to mass cancel orders through the Exchange's risk controls, which are offered at no charge that enables Members to establish pre-determined levels of risk exposure, and can be used to cancel all open orders.[44]

Further, like Purge Ports, Members may also cancel all or a subset of its orders in the System, by firm name or

[36] *See supra* note 4.

[37] *See* Securities Exchange Act Release Nos. 98770 (October 18, 2023), 88 FR 73065 (October 24, 2023) (SR–BX–2023–026); *and* 98768 (October 18, 2023), 88 FR 73056 (October 24, 2023) (SR–NASDAQ–2023–041). While the Exchange included a cost-based justification in this Third Proposal, the Exchange continues to believe that such justification puts the Exchange on an unlevel playing field with its competitors because Purge Ports are optional functionality and no cost-based justification was provided by Phlx or any of its affiliates in their same filings to adopt fees for purge ports. Nor does the Staff Guidance issued by the Commission Staff include such a requirement. *See supra* note 31.

[38] *See supra* notes 4 and 13. *See also* Securities Exchange Act Release No. 77613 (April 13, 2016), 81 FR 23023 (April 19, 2016). *See* also Securities Exchange Act Release Nos. 79956 (February 3, 2017), 82 FR 10102 (February 9, 2017) (SR–BatsBZX–2017–05); 79957 (February 3, 2017), 82 FR 10070 (February 9, 2017) (SR–BatsEDGX–2017–07); 83201 (May 9, 2018), 83 FR 22546 (May 15, 2018) (SR–C2–2018–006).

[39] *See* Exchange Rule 604. *See also generally* Chapter VI of the Exchange's Rules.

[40] *Id.*

[41] *See supra* notes 4 and 13.

[42] *See supra* note 13.

[43] Current Exchange port functionality supports cancelation rates that exceed one thousand messages per second and the Exchange's research indicates that certain Participants rely on such functionality and at times utilize such cancelation rates.

[44] *See* Exchange Rule 532.

by MPID, over their existing ports, or by requesting the Exchange staff to effect such cancellations.[45]

Similarly, Members may use cancel-on-disconnect control when they experience a disruption in their connection to the Exchange and immediately cancel all pending quotes in the Exchange's System.[46] Finally, this existing purging functionality will allow Members to achieve essentially the same outcome in canceling orders as they would by utilizing the Purge Ports. Accordingly, the Exchange believes that the proposed Purge Ports fee is reasonable because it is related to the efficiency of Purge Ports and to other means and services already available which are either free or already a part of a fee assessed to the Member's for existing connectivity. Accordingly, because Purge Ports provide additional optional functionality, excessive fees would simply serve to reduce or eliminate demand for this optional product.

The Exchange also believes that offering Purge Ports at the Matching Engine level promotes risk management across the industry, and thereby facilitates investor protection. Some market participants, in particular the larger firms, could and do build similar risk functionality (as described above) in their trading systems that permit the flexible cancellation of orders entered on the Exchange at a high rate. Offering Matching Engine level protections ensures that such functionality is widely available to all firms, including smaller firms that may otherwise not be willing to incur the costs and development work necessary to support their own customized mass cancel functionality.

As noted above, the Exchange is not the only exchange to offer dedicated Purge Ports, and the proposed rate is lower than that charged by other exchanges for similar functionality. The Exchange also believes that moving to a per Matching Engine fee is reasonable due to the Exchange's architecture that provides it the ability to provide two (2) Purge Ports per Matching Engine for a fee that would still be lower than competing exchanges that charge on a per port basis. Generally speaking, restricting the Exchange's ability to charge fees for these services discourages innovation and competition. Specifically in this case, the Exchange's inability to offer similar services to those offered by other exchanges, and charge reasonable and equitable fees for such services, would put the Exchange at a significant competitive disadvantage and, therefore, serve to restrict competition in the market—especially when other exchanges assess comparable fees higher than those proposed by the Exchange.

The Exchange believes that the proposed Purge Port fees are equitable because the proposed Purge Ports are completely voluntary as they relate solely to optional risk management functionality.

The Exchange also believes that the proposed amendments to its Fee Schedule are not unfairly discriminatory because they will apply uniformly to all Members that choose to use the optional Purge Ports. Purge Ports are completely voluntary and, as they relate solely to optional risk management functionality, no Market Maker is required or under any regulatory obligation to utilize them. All Members that voluntarily select this service option will be charged the same amount for the same services. All Members have the option to select any connectivity option, and there is no differentiation among Members with regard to the fees charged for the services offered by the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Purge Ports are completely voluntary and are available to all Members on an equal basis at the same cost. While the Exchange believes that Purge Ports provide a valuable service, Members can choose to purchase, or not purchase, these ports based on their own determination of the value and their business needs. No Member is required or under any regulatory obligation to utilize Purge Ports. Accordingly, the Exchange believes that Purge Ports offer appropriate risk management functionality to firms that trade on the Exchange without imposing an unnecessary or inappropriate burden on competition.

Furthermore, the Exchange operates in a highly competitive environment, and its ability to price the Purge Ports is constrained by competition among exchanges that offer similar functionality. As discussed, there are currently a number of similar offers available to market participants for higher fees at other exchanges. Proposing fees that are excessively higher than established fees for similar functionality would simply serve to reduce demand for the Purge Ports, which as discussed, market participants are under no obligation to utilize. It could also cause firms to shift trading to other exchanges that offer similar functionality at a lower cost, adversely impacting the overall trading on the Exchange and reducing market share. In this competitive environment, potential purchasers are free to choose which, if any, similar product to purchase to satisfy their need for risk management. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

The Exchange also does not believe the proposal would cause any unnecessary or inappropriate burden on intermarket competition as other exchanges are free to introduce their own purge port functionality and lower their prices to better compete with the Exchange's offering. The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposal would apply uniformly to any market participant, in that it does not differentiate between Members. The proposal would allow any interested Members to purchase Purge Port functionality based on their business needs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange received one comment letter on the Initial Proposal and one comment letter on the Second Proposal, both from the same commenter.[47] This comment letters were submitted not only on these proposals, but also the proposals by the Exchange and its affiliates to amend fees for 10Gb ULL connectivity and certain ports. The Exchange received one other comment letter on the Second Proposal.[48] Overall, the Exchange believes that the issues raised by the first commenter are not germane to this proposal because they apply primarily to the other fee filings. Also, the commenters raised concerns with the current environment surrounding exchange non-transaction fee proposals that should be addressed by the Commission through rule making, or Congress, more holistically and not through an individual exchange

[45] *See* Exchange Rule 519C(a).

[46] *See* Exchange Rule 519C(c).

[47] *See* letters from Thomas M. Merritt, Deputy General Counsel, Virtu Financial, Inc. (''Virtu''), to Vanessa Countryman, Secretary, Commission, dated November 8, 2023 and January 2, 2024.

[48] *See* letter from John C. Pickford, Counsel, Susquehanna International Group, LLP (''SIG''), to Vanessa Countryman, Secretary, Commission, dated January 4, 2024.

fee filings. However, the commenters do raise one issue that concerns this proposal whereby it asserts that the Exchange's comparison to fees charged by other exchanges for similar ports is irrelevant and unpersuasive. The core of the issue raised is regarding the cost to connect to one exchange compared to the cost to connect to others. A thorough response to this comment would require the Exchange to obtain competitively sensitive information about other exchange architecture and how their members connect. The Exchange is not privy to this information. Further, the commenter compares the Exchange's proposed rate to other exchanges that offer purge port functionality across all matching engines for a single fee, but fails to provide the same comparison to other exchanges that charge for purge functionality like proposed here. The Exchange does not have insight into the technical architecture of other exchanges so it is difficult to ascertain the number of purge ports a firm would need to connect to another exchanges entire market. Therefore, the Exchange is limited to comparing its proposed fee to other exchanges' purge port fees as listed in their fee schedules.

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,[49] and Rule 19b–4(f)(2)[50] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–PEARL–2024–07 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–PEARL–2024–07. 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–PEARL–2024–07 and should be submitted on or before March 12, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[51]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–03342 Filed 2–16–24; 8:45 am]

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[49] 15 U.S.C. 78s(b)(3)(A)(ii).

[50] 17 CFR 240.19b–4(f)(2).

[51] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99530; File No. SR–CboeBZX–2023–062]

Self-Regulatory Organizations; CboeBZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Amend the Initial Period After Commencement of Trading of a Series of ETF Shares on the Exchange as It Relates to the Holders of Record and/or Beneficial Holders, as Provided in Exchange Rule 14.11(l)

February 13, 2024.

On August 14, 2023, Cboe BZX Exchange, Inc. (''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the initial period after commencement of trading of a series of ETF Shares on the Exchange as it specifically relates to holders of record and/or beneficial holders under BZX Rule 14.11(l). The proposed rule change was published for comment in the **Federal Register** on September 1, 2023.[3] On September 25, 2023, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On November 14, 2023, the Commission instituted proceedings pursuant to Section 19(b)(2)(B) of the Act[6] to determine whether to approve or disapprove the proposed rule change.[7]

Section 19(b)(2) of the Act[8] provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 98231 (August 28, 2023), 88 FR 60516.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 98497 (September 25, 2023), 88 FR 67397 (September 29, 2023). The Commission has received no comments on the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 98933, 88 FR 80783 (November 20, 2023).

[8] 15 U.S.C. 78s(b)(2).

approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on September 1, 2023.[9] February 28, 2024 is 180 days from that date, and April 28, 2024 is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[10] designates April 28, 2024 as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR–CboeBZX–2023–062).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–03339 Filed 2–16–24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99528; File No. SR–MIAX–2024–08]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 404, Series of Option Contracts Open for Trading

February 13, 2024.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 1, 2024, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to update an internal cross reference in Rule 404, Series of Option Contracts Open for Trading.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to update an internal cross reference in paragraph (a) of Rule 404, Series of Option Contracts Open for Trading.[3] Specifically, the Exchange proposes to amend the last sentence of paragraph (a) which provides that, for Monthly Options Series, the Exchange will fix a specific expiration date and exercise price, as provided in Interpretation and Policy .12. The Exchange now proposes to correct the internal cross reference from Interpretation and Policy .12 to Interpretation and Policy .13. Interpretation and Policy .13 describes the Monthly Option Series Program and is the correct internal cross reference for paragraph (a).

2. Statutory Basis

The Exchange believes the proposed rules changes are consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[4] Specifically, the Exchange believes the proposed rules changes are consistent with Section 6(b)(5)[5] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that the proposed change to its rules to correct an internal cross reference would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed change is designed to update correct an erroneous internal cross reference. The Exchange believes that Members[6] would benefit from the increased clarity, thereby reducing potential confusion and ensuring that those subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the Exchange's rules. The Exchange further believes that the proposed changes would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased clarity, thereby reducing potential confusion.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rules changes would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rules change is not intended to address a competitive issue but rather would modify an Exchange rule to update an incorrect cross reference. Since the proposal does not substantively modify System[7] functionality or processes on the Exchange, the proposed changes will not impose any burden on competition nor are they meant to affect competition among the exchanges. For these reasons, the Exchange believes that the proposed rules change reflects this competitive environment and does not impose any

[9] *See supra* note 3, and accompanying text.

[10] *Id.*

[11] 17 CFR 200.30–3(a)(57).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange notes that all the rules of Chapter IV of the MIAX Options Exchange, including Rule 404, are incorporated by reference to MIAX Emerald.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[7] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

undue burden on intermarket competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [8] and subparagraph (f)(6) of Rule 19b–4 thereunder.[9]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [10] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [11] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that a waiver of the operative delay would permit the Exchange to promptly correct an erroneous internal cross reference. The Commission believes that the proposed rule change presents no novel legal or regulatory issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–MIAX–2024–08 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–MIAX–2024–08. 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–MIAX–2024–08 and should be submitted on or before March 12, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–03335 Filed 2–16–24; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99531; File No. SR–CboeEDGX–2024–011]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

February 13, 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 February 1, 2024, Cboe EDGX Exchange, Inc. (''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') proposes to amend its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule applicable to its equities trading platform (''EDGX Equities'') as follows: (1) by modifying the rate associated with fee code DX; (2) by introducing a new Add Volume Tier and new Non-Displayed Add Volume Tier; (3) by modifying certain Non-Displayed Add Volume Tiers; (4) by modifying the Cross Asset Tier; and (5) by discontinuing Growth Tier 5, Non-Displayed Step-Up Volume Tier 3, and Retail Growth Tier 3. The Exchange proposes to implement these changes effective February 1, 2024.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues that do not have similar self-regulatory responsibilities under the Securities Exchange Act of 1934 (the ''Act''), to which market participants may direct their order flow. Based on publicly available information,[3] no single registered equities exchange has more than 14% of the market share. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. The Exchange in particular operates a ''Maker-Taker'' model whereby it pays rebates to members that add liquidity and assesses fees to those that remove liquidity. The Exchange's Fee Schedule sets forth the standard rebates and rates applied per share for orders that provide and remove liquidity, respectively. Currently, for orders in securities priced at or above $1.00, the Exchange provides a standard rebate of $0.00160 per share for orders that add liquidity and assesses a fee of $0.0030 per share for orders that remove liquidity.[4] For orders in securities priced below $1.00, the Exchange provides a standard rebate of $0.00003 per share for orders that add liquidity and assesses a fee of 0.30% of the total dollar value for orders that remove liquidity.[5] Additionally, in response to the competitive environment, the Exchange also offers tiered pricing which provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

Fee Code DX

The Exchange currently offers fee code DX, which is appended to Midpoint Discretionary Orders (''MDOs'')[6] using the Quote Depletion Protection (''QDP'')[7] order instruction that remove liquidity from the Exchange. QDP is designed to provide enhanced protections to MDOs by tracking significant executions that constitute the best bid or offer on the EDGX Book[8] and enabling Users[9] to avoid potentially unfavorable executions by preventing MDOs entered with the optional QDP instruction from exercising discretion to trade at more aggressive prices when QDP has been triggered.[10] Currently, orders appended with fee code DX are assessed a fee of $0.00100 per share in securities at or above $1.00 and 0.30% of dollar value for securities priced below $1.00. The Exchange proposes to increase the fee to $0.00150 per share in securities at or above $1.00. There is no proposed change in the fee assessed to securities priced below $1.00. The purpose of increasing the fee associated with fee code DX in securities priced at or above $1.00 is for business and competitive reasons, as the Exchange believes that increasing such fee as proposed would decrease the Exchange's expenditures with respect to transaction pricing in a manner that is still consistent with the Exchange's overall pricing philosophy of encouraging added liquidity.

Add Volume Tiers

Under footnote 1 of the Fee Schedule, the Exchange currently offers various Add/Remove Volume Tiers. In particular, the Exchange offers seven Add Volume Tiers that each provide an enhanced rebate for Members' qualifying orders yielding fee codes 3,[11] 4,[12] B,[13] V,[14] and Y[15] where a Member reaches certain add volume-based criteria. The Exchange now proposes to introduce a new Add Volume Tier to provide Members an additional manner in which they could receive an enhanced rebate if certain criteria is met. The criteria for proposed Add Volume Tier 8 is as follows:

- Add Volume Tier 8 provides a rebate of $0.0034 per share in securities priced at or above $1.00 to qualifying orders (*i.e.,* orders yielding fee codes 3, 4, B, V, or Y) where (1) Member has a total retail ADV[16] (yielding fee codes ZA,[17] ZO,[18] ZM,[19] and ZR[20]) ≥0.80% of the TCV[21] or Member has a total retail ADV (yielding fee codes ZA, ZO, ZM, and ZR) ≥80,000,000; and (2) Member has a total remove ADV ≥0.80% of the TCV or Member has a total remove ADV ≥80,000,000.

In addition to the Add Volume Tiers offered under footnote 1, the Exchange also offers a Cross Asset Tier, which is designed to incentivize Members to achieve certain levels of participation on both the Exchange's equities and options platform (''EDGX Options''). The Exchange now proposes to amend

[3] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (January 24, 2024), available at *https://www.cboe.com/us/equities/market_statistics/.*

[4] *See* EDGX Equities Fee Schedule, Standard Rates.

[5] *Id.*

[6] *See* Exchange Rule 11.8(g).

[7] *See* Exchange Rule 11.8(g)(10).

[8] *See* Exchange Rule 1.5(d).

[9] *See* Exchange Rule 1.5(ee).

[10] *See* Securities Exchange Act Release No. 89007 (June 4, 2020), 85 FR 35454 (June 10, 2020) (SR–CboeEDGX–2020–010) (''Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to Amend the Rule Relating to MidPoint Discretionary Orders to Allow Optional Offset or Quote Depletion Protection Instructions'').

[11] Fee code 3 is appended to orders adding liquidity to EDGX in the pre and post market in Tapes A or C securities.

[12] Fee code 4 is appended to orders adding liquidity to EDGX in the pre and post market in Tape B securities.

[13] Fee code B is appended to orders adding liquidity to EDGX in Tape B securities.

[14] Fee code V is appended to orders adding liquidity to EDGX in Tape A securities.

[15] Fee code Y is appended to orders adding liquidity to EDGX in Tape C securities.

[16] ''ADV'' means average daily volume calculated as the number of shares added to, removed from, or routed by, the Exchange, or any combination or subset thereof, per day. ADV is calculated on a monthly basis.

[17] Fee code ZA is appended to Retail Orders adding liquidity to EDGX.

[18] Fee code ZO is appended to Retail orders adding liquidity to EDGX in the pre and post market.

[19] Fee code ZM is appended to Retail orders marked as Day/RHO or GTX that remove liquidity from EDGX upon arrival.

[20] Fee code ZR is appended to Retail Orders that remove liquidity from EDGX.

[21] ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

the criteria of the Cross Asset Tier as the tier has expired. The proposed criteria for the Cross Asset Tier is as follows:

• The Cross Asset Tier provides a rebate of $0.0029 per share for securities priced at or above $1.00 for qualifying orders (*i.e.,* orders yielding fee codes 3, 4, B, V, or Y) where (1) Member has a Tape B & C ADAV ≥6,000,000; and (2) Member has an Add ADV on EDGX Options ≥300,000 in SPY.

The proposed Cross Asset Tier will no longer have an expiration date as it will no longer contain a component criteria requiring Members to grow their volume over a certain baseline month. In conjunction with the proposed modifications to the Cross Asset Tier, the Exchange also proposes to remove the definition of Market Maker Add [22] from the fee schedule as this term is no longer being utilized.

Also under footnote 1, the Exchange offers four Non-Displayed Add Volume Tiers that each provide an enhanced rebate for Members' qualifying orders yielding fee codes DM,[23] HA,[24] MM,[25] and RP,[26] where a Member reaches certain volume-based criteria offered in each tier. The Exchange now proposes to introduce a new Non-Displayed Add Volume Tier to provide Members an additional manner in which they could receive an enhanced rebate if certain criteria is met. The criteria for proposed Non-Displayed Add Volume Tier 5 is as follows:

• Non-Displayed Add Volume Tier 5 provides a rebate of $0.0026 per share for securities priced at or above $1.00 for qualifying orders (*i.e.,* orders yielding fee codes DM, HA, MM, or RP) where (1) Member has a total retail ADV (yielding fee codes ZA, ZO, ZM, and ZR) ≥0.80% of the TCV or Member has a total retail ADV (yielding fee codes ZA, ZO, ZM, and ZR) ≥80,000,000; and (2) Member has a total remove ADV ≥0.80% of the TCV or Member has a total remove ADV ≥80,000,000.

In addition to introducing proposed Non-Displayed Add Volume Tier 5, the Exchange also proposes to amend Non-Displayed Add Volume Tiers 1–3 by removing the second prong of criteria from each of the three tiers and modifying the TCV requirement for Non-Displayed Add Volume Tiers 2 and 3. Currently, the criteria for Non-Displayed Add Volume Tiers 1–3 is as follows:

• Non-Displayed Add Volume Tier 1 provides a rebate of $0.0015 per share for securities priced at or above $1.00 for qualifying orders (*i.e.,* orders yielding fee codes DM, HA, MM, or RP) where Member has an ADAV ≥0.05% of TCV for Non-Displayed orders that yield fee codes DM, HA, HI,[27] MM or RP; or Member has an ADAV ≥5,000,000 for Non-Displayed orders that yield fee codes DM, HA, HI, MM or RP.

• Non-Displayed Add Volume Tier 2 provides a rebate of $0.0020 per share for securities priced at or above $1.00 for qualifying orders (*i.e.,* orders yielding fee codes DM, HA, MM, or RP) where Member has an ADAV ≥0.08% of TCV for Non-Displayed orders that yield fee codes DM, HA, HI, MM or RP; or Member has an ADAV ≥8,000,000 for Non-Displayed orders that yield fee codes DM, HA, HI, MM or RP.

• Non-Displayed Add Volume Tier 3 provides a rebate of $0.0025 per share for securities priced at or above $1.00 for qualifying orders (*i.e.,* orders yielding fee codes DM, HA, MM, or RP) where Member has an ADAV ≥0.10% of TCV for Non-Displayed orders that yield fee codes DM, HA, HI, MM or RP; or Member has an ADAV ≥10,000,000 for Non-Displayed orders that yield fee codes DM, HA, HI, MM or RP.

The proposed criteria for Non-Displayed Add Volume Tiers 1–3 is as follows:

• Non-Displayed Add Volume Tier 1 provides a rebate of $0.0015 per share for securities priced at or above $1.00 for qualifying orders (*i.e.,* orders yielding fee codes DM, HA, MM, or RP) where Member has an ADAV ≥0.05% of TCV for Non-Displayed orders that yield fee codes DM, HA, HI, MM or RP.

• Non-Displayed Add Volume Tier 2 provides a rebate of $0.0020 per share for securities priced at or above $1.00 for qualifying orders (*i.e.,* orders yielding fee codes DM, HA, MM, or RP) where Member has an ADAV ≥0.10% of TCV for Non-Displayed orders that yield fee codes DM, HA, HI, MM or RP.

• Non-Displayed Add Volume Tier 3 provides a rebate of $0.0025 per share for securities priced at or above $1.00 for qualifying orders (*i.e.,* orders yielding fee codes DM, HA, MM, or RP) where Member has an ADAV ≥0.12% of TCV for Non-Displayed orders that yield fee codes DM, HA, HI, MM or RP.

Together, the proposed addition of Add Volume Tier 8 and Non-Displayed Add Volume Tier 5, proposed amendment to the Cross Asset Tier, and proposed amendments to Non-Displayed Add Volume Tiers 1–3 are each intended to provide Members an opportunity to earn an enhanced rebate by increasing their order flow to the Exchange, which further contributes to a deeper, more liquid market and provides even more execution opportunities for active market participants. Incentivizing an increase in liquidity adding volume through enhanced rebate opportunities encourages liquidity adding Members on the Exchange to contribute to a deeper, more liquid market, providing for overall enhanced price discovery and price improvement opportunities on the Exchange. As such, increased overall order flow benefits all Members by contributing towards a robust and well-balanced market ecosystem.

In addition to the proposed additions and modifications to footnote 1 discussed above, the Exchange now proposes to discontinue Growth Tier 5 and Non-Displayed Step-Up Volume Tier 3 as the Exchange no longer wishes to, nor is required to, maintain such tiers. More specifically, the proposed change removes these tiers as the Exchange would rather redirect future resources and funding into other programs and tiers intended to incentivize increased order flow.

Retail Volume Tiers

Under footnote 2 of the Fee Schedule, the Exchange currently offers various Retail Volume Tiers which provide an enhanced rebate for Retail Member Organizations (''RMOs'') [28] an opportunity to receive an enhanced rebate from the standard rebate for Retail Orders [29] that add liquidity (*i.e.,* yielding fee code ZA or ZO). Currently, the Exchange offers one Retail Growth Tiers where an RMO is eligible for an enhanced rebate for qualifying orders (*i.e.,* yielding fee code ZA or ZO) meeting certain add volume-based criteria, including ''growing'' its volume over a certain baseline month. The Exchange now proposes to discontinue Retail Growth Tier 3 as the Exchange no longer wishes to, nor is required to,

[22] ''Market Maker Add'' means any order for the account of a registered Market Maker on EDGX Options appended with fee code NM or PM.

[23] Fee code DM is appended to orders that add liquidity using MidPoint Discretionary Order within discretionary range.

[24] Fee code HA is appended to non-displayed orders that add liquidity.

[25] Fee code MM is appended to non-displayed orders that add liquidity using Mid-Point Peg.

[26] Fee code RP is appended to non-displayed orders that add liquidity using Supplemental Peg.

[27] Fee code HI is appended to non-displayed orders that receive price improvement and add liquidity to EDGX.

[28] *See* EDGX Rule 11.21(a)(1). A ''Retail Member Organization'' or ''RMO'' is a Member (or a division thereof) that has been approved by the Exchange under this Rule to submit Retail Orders.

[29] *See* EDGX Rule 11.21(a)(2). A ''Retail Order'' is an agency or riskless principal order that meets the criteria of FINRA Rule 5320.03 that originates from a natural person and is submitted to the Exchange by a Retail Member Organization, provided that no change is made to the terms of the order with respect to price or side of the market and the order does not originate from a trading algorithm or any other computerized methodology.

maintain such tier. More specifically, the proposed change removes this tier as the Exchange would rather redirect future resources and funding into other programs and tiers intended to incentivize increased order flow.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[30] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [31] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [32] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers as well as Section 6(b)(4) [33] as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities.

As described above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The Exchange believes that its proposal to: (1) introduce a new Add Volume Tier and new Non-Displayed Add Volume Tier; (2) modify certain Non-Displayed Add Volume Tiers; and (3) modify the Cross Asset Tier reflects a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all Members. Additionally, the Exchange notes that relative volume-based incentives and discounts have been widely adopted by exchanges,[34] including the Exchange,[35] and are reasonable, equitable and non-discriminatory because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to (i) the value to an exchange's market quality and (ii) associated higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns. Competing equity exchanges offer similar tiered pricing structures, including schedules of rebates and fees that apply based upon members achieving certain volume and/or growth thresholds, as well as assess similar fees or rebates for similar types of orders, to that of the Exchange.

In particular, the Exchange believes its proposal to: (1) introduce a new Add Volume Tier and new Non-Displayed Add Volume Tier; (2) modify certain Non-Displayed Add Volume Tiers; and (3) modify the Cross Asset Tier is reasonable because the new and revised tiers will be available to all Members and provide all Members with an opportunity to receive an enhanced rebate, including additional opportunities to receive an enhanced rebate with the addition of proposed Add Volume Tier 8 and proposed Non-Displayed Add Volume Tier 5. The Exchange further believes its proposal to: (1) introduce a new Add Volume Tier and new Non-Displayed Add Volume Tier; (2) modify certain Non-Displayed Add Volume Tiers; and (3) modify the Cross Asset Tier will provide a reasonable means to encourage liquidity adding displayed orders in Members' order flow to the Exchange and to incentivize Members to continue to provide liquidity adding volume to the Exchange by offering them an opportunity to receive an enhanced rebate on qualifying orders. While the modified criteria in proposed Non-Displayed Add Volume Tiers 1–3 and the Cross Asset Tier is slightly more difficult than the current criteria found in those respective tiers, the proposed criteria is not a significant departure from existing criteria, is reasonably correlated to the enhanced rebate offered by the Exchange, and will continue to incentivize Members to submit order flow to the Exchange. An overall increase in activity would deepen the Exchange's liquidity pool, offers additional cost savings, support the quality of price discovery, promote market transparency and improve market quality, for all investors.

The Exchange believes that its proposal to eliminate current Growth Tier 5, Non-Displayed Step-Up Volume Tier 3, and Retail Growth Tier 3 is reasonable because the Exchange is not required to maintain these tiers, nor is it required to provide Members an opportunity to receive enhanced rebates. The Exchange believes its proposal to eliminate these tiers is also equitable and not unfairly discriminatory because it applies to all Members (*i.e.,* the tiers will not be available for any Member). The Exchange also notes that the proposed rule change to remove these tiers merely results in Members not receiving an enhanced rebate, which, as noted above, the Exchange is not required to offer or maintain. Furthermore, the proposed rule change to eliminate current Growth Tier 5, Non-Displayed Step-Up Volume Tier 3, and Retail Growth Tier 3 enables the Exchange to redirect resources and funding into other programs and tiers intended to incentivize increased order flow.

Further, the Exchange believes that its proposal to modify the fee associated with fee code DX is reasonable, equitable, and consistent with the Act because such change is designed to decrease the Exchange's expenditures with respect to transaction pricing in order to offset some of the costs associated with the Exchange's current pricing structure, which provides various rebates for liquidity-adding orders, and the Exchange's operations generally, in a manner that is consistent with the Exchange's overall pricing philosophy of encouraging added liquidity. The proposed increased fee of $0.0015 per share is reasonable and appropriate because while it is slightly higher than the existing fee, it remains lower than other fees assessed by the Exchange in order to remove liquidity.[36] The Exchange further believes that the proposed increase to the fee associated with fee code DX is not unfairly discriminatory because it applies to all Members equally, in that all Members will be assessed the higher fee upon submitting orders appended with fee codes DX.

Without having a view of activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would definitely result in any Members qualifying the new proposed tiers. While the Exchange has no way of

[30] 15 U.S.C. 78f(b).

[31] 15 U.S.C. 78f(b)(5).

[32] *Id.*

[33] 15 U.S.C. 78f(b)(4).

[34] *See, e.g.,* BZX Equities Fee Schedule, Footnote 1, Add/Remove Volume Tiers.

[35] *See, e.g.,* EDGX Equities Fee Schedule, Footnote 1, Add/Remove Volume Tiers.

[36] *See e.g.,* EDGX Equity Fee Schedule, Fee Codes and Associated Fees. For example, orders with a fee code of BB, N, or W are assessed a fee of $0.00300.

predicting with certainty how the proposed changes will impact Member activity, based on the prior months volume, the Exchange anticipates that at least one Member will be able to satisfy proposed Add Volume Tier 8, at least one Member will be able to satisfy the proposed Cross Asset Tier, at least one Member will be able to satisfy proposed Non-Displayed Tier 1, at least two Members will be able to satisfy proposed Non-Displayed Tier 2, at least one Member will be able to satisfy proposed Non-Displayed Tier 3, and at least one Member will be able to satisfy proposed Non-Displayed Add Volume Tier 5. The Exchange also notes that proposed changes will not adversely impact any Member's ability to qualify for enhanced rebates offered under other tiers. Should a Member not meet the proposed new criteria, the Member will merely not receive that corresponding enhanced rebate.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional order flow to a public exchange, thereby promoting market depth, execution incentives and enhanced execution opportunities, as well as price discovery and transparency for all Members. As a result, the Exchange believes that the proposed changes further the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.''

The Exchange believes the proposed rule changes do not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposed changes to: (1) introduce a new Add Volume Tier and new Non-Displayed Add Volume Tier; (2) modify certain Non-Displayed Add Volume Tiers; and (3) modify the Cross Asset Tier will apply to all Members equally in that all Members are eligible for the proposed new and revised tiers, have a reasonable opportunity to meet the proposed new and revised tiers' criteria and will receive the enhanced rebate on their qualifying orders if such criteria is met. Further, the proposed change to the fee associated with fee code DX do not impose an unnecessary burden as all Members will be subject to the higher fee assessed to orders appended with fee code DX. The Exchange does not believe the proposed changes burden competition, but rather, enhances competition as it is intended to increase the competitiveness of EDGX by amending existing pricing incentives and adopting new pricing incentives in order to attract order flow and incentivize participants to increase their participation on the Exchange, providing for additional execution opportunities for market participants and improved price transparency. Greater overall order flow, trading opportunities, and pricing transparency benefits all market participants on the Exchange by enhancing market quality and continuing to encourage Members to send orders, thereby contributing towards a robust and well-balanced market ecosystem.

The Exchange believes the proposed elimination of Growth Tier 5, Non-Displayed Step-Up Volume Tier 3, and Retail Growth Tier 3 do not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposed changes to eliminate Growth Tier 5, Non-Displayed Step-Up Volume Tier 3, and Retail Growth Tier 3 will not impose any burden on intramarket competition because the changes apply to all Members uniformly, as in, the tiers will no longer be available to any Member.

Next, the Exchange believes the proposed rule changes does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including other equities exchanges, off-exchange venues, and alternative trading systems. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single equities exchange has more than 14% of the market share.[37] Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [38] The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''.[39] Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [40] and paragraph (f) of Rule 19b–4 [41] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule

[37] *Supra* note 3.

[38] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[39] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[40] 15 U.S.C. 78s(b)(3)(A).

[41] 17 CFR 240.19b–4(f).

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–CboeEDGX–2024–011 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CboeEDGX–2024–011. 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–CboeEDGX–2024–011 and should be submitted on or before March 12, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[42]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–03340 Filed 2–16–24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99526; File No. SR–MIAX–2024–07]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule for Purge Ports

February 13, 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 January 31, 2024, Miami International Securities Exchange, LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the MIAX Options Exchange Fee Schedule (the ''Fee Schedule'') to amend fees for Purge Ports.[3]

The text of the proposed rule change is available on the Exchange's website at *https://www.miaxglobal.com/markets/us-options/miax-options/rule-filings,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the fees for Purge Ports, which is a function enabling Market Makers[4] to cancel all open quotes or a subset of open quotes through a single cancel message. The Exchange currently provides Market Makers the option to purchase Purge Ports to assist in their quoting activity. Purge Ports provide Market Makers with the ability to send purge messages to the Exchange System.[5] Purge Ports are not capable of sending or receiving any other type of messages or information. The use of Purge Ports is completely optional and no rule or regulation requires that a Market Maker utilize them.

The Exchange initially filed the proposal on September 29, 2023 (SR–MIAX–2023–37) (the ''Initial Proposal'').[6] On November 22, 2023, the Exchange withdrew the Initial Proposal and replaced with a revised filing (SR–MIAX–2023–43) (the ''Second Proposal'').[7] On January 31, 2024, the Exchange withdrew the Second Proposal and replaced it with this further revised filing (the ''Third Proposal'') (SR–MIAX–2024–07).

The Exchange is including a cost analysis in this filing to justify the proposed fees. As described more fully below, the cost analysis includes, among other things, descriptions of how the Exchange allocated costs among it and its affiliated exchanges for similar proposed fee changes (separately between MIAX Pearl Options[8] and

[42] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The proposed fee change is based on a recent proposal by Nasdaq Phlx LLC (''Phlx'') to adopt fees for purge ports. *See* Securities Exchange Act Release No. 97825 (June 30, 2023), 88 FR 43405 (July 7, 2023) (SR–Phlx–2023–28).

[4] The term ''Market Makers'' refers to Lead Market Makers (''LMMs''), Primary Lead Market Makers (''PLMMs''), and Registered Market Makers (''RMMs'') collectively. *See* Exchange Rule 100.

[5] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[6] *See* Securities Exchange Act Release No. 98732 (October 12, 2023), 88 FR 71913 (October 18, 2023) (SR–MIAX–2023–37).

[7] *See* Securities Exchange Act Release No. 99088 (December 5, 2023), 88 FR 85958 (December 11, 2023) (SR–MIAX–2023–43).

[8] MIAX Pearl Options is the options market of MIAX PEARL, LLC (''MIAX Pearl''), which also operates an equities trading facility called MIAX Pearl Equities. *See* Exchange Rule 100 and MIAX Pearl Rule 1901.

MIAX Emerald,[9] collectively referred to herein as the ''affiliated markets''), to ensure no cost was allocated more than once, as well as detail supporting its cost allocation processes and explanations as to why a cost allocation in this proposal may differ from the same cost allocation in similar proposals submitted by the affiliated markets. The proposed fees are intended to cover the Exchange's cost of providing Purge Ports with a reasonable mark-up over those costs.

* * * * *

Purge Port Fee Change

Unlike other options exchanges that charge fees for Purge Ports on a per port basis,[10] the Exchange assesses a flat fee of $1,500 per month, regardless of the number of Purge Ports utilized by a Market Maker. Currently, a Market Maker may request and be allocated two (2) Purge Ports per Matching Engine [11] to which it connects and not all Market Makers connect to all of the Exchange's Matching Engines.

The Exchange now proposes to amend the fee for Purge Ports to align more closely with other exchanges who charge on a per port basis by providing two (2) Purge Ports per Matching Engine for a monthly flat fee of $300 per month per Matching Engine. The only difference with a per port structure is that Market Makers receive two (2) Purge Ports per Matching Engine for the same proposed monthly fee, rather than being charged a separate fee for each Purge Port. The Exchange proposes to charge the proposed fee for Purge Ports per Matching Engine, instead on a per Purge Port basis, due to its System architecture which provides two (2) Purge Ports per Matching Engine for redundancy purposes. In addition, the proposed fee is lower than the comparable fee charged by competing exchanges that also charge on a per port basis, notwithstanding that the Exchange is providing up to two (2) Purge Ports for that same lower fee.[12]

Similar to a per port charge, Market Makers are able to select the Matching Engines that they want to connect to,[13] based on the business needs of each Market Maker, and pay the applicable fee based on the number of Matching Engines and ports utilized. The Exchange believes that the proposed fee provides Market Makers with flexibility to control their Purge Port costs based on the number of Matching Engines each Marker Maker elects to connect to based on each Market Maker's business needs.

* * * * *

A logical port represents a port established by the Exchange within the Exchange's System for trading and billing purposes. Each logical port grants a Member [14] the ability to accomplish a specific function, such as order entry, order cancellation, access to execution reports, and other administrative information.

Purge Ports are designed to assist Market Makers [15] in the management of, and risk control over, their quotes, particularly if the firm is dealing with a large number of securities. For example, if a Market Maker detects market indications that may influence the execution potential of their quotes, the Market Maker may use Purge Ports to reduce uncertainty and to manage risk by purging all quotes in a number of securities. This allows Market Makers to seamlessly avoid unintended executions, while continuing to evaluate the market, their positions, and their risk levels. Purge Ports are used by Market Makers that conduct business activity that exposes them to a large amount of risk across a number of securities. Purge Ports enable Market Makers to cancel all open quotes, or a subset of open quotes through a single cancel message. The Exchange notes that Purge Ports increase efficiency of already existing functionality enabling the cancellation of quotes.

The Exchange operates highly performant systems with significant throughput and determinism which allows participants to enter, update and cancel quotes at high rates. Market Makers may currently cancel individual quotes through the existing functionality, such as through the use of a mass cancel message by which a Market Maker may request that the Exchange remove all or a subset of its quotations and block all or a subset of its new inbound quotations.[16] Other than Purge Ports being a dedicated line for cancelling quotations, Purge Ports operate in the same manner as a mass cancel message being sent over a different type of port. For example, like Purge Ports, mass cancellations sent over a logical port may be done at either the firm or MPID level. As a result, Market Makers can currently cancel quotes in rapid succession across their existing logical ports [17] or through a single cancel message, all open quotes or a subset of open quotes.

Similarly, Market Makers may also use cancel-on-disconnect control when they experience a disruption in connection to the Exchange to automatically cancel all quotes, as configured or instructed by the Member or Market Maker.[18] In addition, the Exchange already provides similar ability to mass cancel quotes through the Exchange's risk controls, which are offered at no charge and enables Market Makers to establish pre-determined levels of risk exposure, and can be used to cancel all open quotes.[19] Accordingly, the Exchange believes that the Purge Ports provide an efficient option as an alternative to already available services and enhance the Market Maker's ability to manage their risk.

The Exchange believes that market participants benefit from a dedicated purge mechanism for specific Market Makers and to the market as a whole. Market Makers will have the benefit of efficient risk management and purge tools. The market will benefit from potential increased quoting and liquidity as Market Makers may use Purge Ports to manage their risk more robustly. Only Market Makers that

[9] The term ''MIAX Emerald'' means MIAX Emerald, LLC. *See* Exchange Rule 100.

[10] *See* Cboe BXZ Exchange, Inc. (''BZX'') Options Fee Schedule, Options Logical Port Fees, Purge Ports ($750 per purge port per month); Cboe EDGX Exchange, Inc. (''EDGX'') Options Fee Schedule, Options Logical Port Fees, Purge Ports ($750 per purge port per month); Cboe Exchange, Inc. (''Cboe'') Fee Schedule ($850 per purge port per month). *See also* Nasdaq GEMX, Options 7, Pricing Schedule, Section 6.C.(3). Nasdaq GEMX, LLC (''Nasdaq GEMX'') assesses its members $1,250 per SQF Purge Port per month, subject to a monthly cap of $17,500 for SQF Purge Ports and SQF Ports, applicable to market makers. *See also* Securities Exchange Act Release No. 97825 (June 30, 2023), 88 FR 43405 (July 7, 2023) (SR–Phlx–2023–28).

[11] A Matching Engine is a part of the MIAX electronic system that processes options quotes and trades on a symbol-by-symbol basis. Some matching engines will process option classes with multiple root symbols, and other matching engines will be dedicated to one single option root symbol (for example, options on SPY will be processed by one single matching engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated matching engine. A particular root symbol may not be assigned to multiple matching engines. *See* Fee Schedule, Section 5)d), note 29.

[12] *See supra* note 10.

[13] The Exchange notes that each Matching Engine corresponds to a specified group of symbols. Certain Market Makers choose to only quote in certain symbols while other Market Makers choose to quote the entire market.

[14] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[15] Members seeking to become registered as a Market Maker must comply with the applicable requirements of Chapter VI of the Exchange's Rules.

[16] *See* Exchange Rule 519C(a) and (b).

[17] Current Exchange port functionality supports cancelation rates that exceed one thousand messages per second and the Exchange's research indicates that certain market participants rely on such functionality and at times utilize such cancelation rates.

[18] *See* Exchange Rule 519C(c).

[19] *See* Exchange Rule 532.

request Purge Ports would be subject to the proposed fees, and other Market Makers can continue to operate in exactly the same manner as they do today without dedicated Purge Ports, but with the additional purging capabilities described above.

Implementation Date

The proposed fees are effective beginning February 1, 2024.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[20] in general, and furthers the objectives of Section 6(b)(5) of the Act,[21] in particular, in that it is not designed to permit unfair discrimination among customers, brokers, or dealers. The Exchange also believes that its proposed fee is consistent with Section 6(b)(4) of the Act [22] because it represents an equitable allocation of reasonable dues, fees and other charges among market participants.

Cost Analysis

In general, the Exchange believes that exchanges, in setting fees of all types, should meet very high standards of transparency to demonstrate why each new fee or fee increase meets the Exchange Act requirements that fees be reasonable, equitably allocated, not unfairly discriminatory, and not create an undue burden on competition among members and markets. In particular, the Exchange believes that each exchange should take extra care to be able to demonstrate that these fees are based on its costs and reasonable business needs.

In proposing to charge fees for port services, the Exchange is especially diligent in assessing those fees in a transparent way against its own aggregate costs of providing the related service, and in carefully and transparently assessing the impact on Members—both generally and in relation to other Members, *i.e.,* to assure the fee will not create a financial burden on any participant and will not have an undue impact in particular on smaller Members and competition among Members in general. The Exchange believes that this level of diligence and transparency is called for by the requirements of Section 19(b)(1) under the Act,[23] and Rule 19b–4 thereunder,[24] with respect to the types of information exchanges should provide when filing fee changes, and Section 6(b) of the Act,[25] which requires, among other things, that exchange fees be reasonable and equitably allocated,[26] not designed to permit unfair discrimination,[27] and that they not impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[28] This rule change proposal addresses those requirements, and the analysis and data in each of the sections that follow are designed to clearly and comprehensively show how they are met. The Exchange notes that the legacy exchanges with whom the Exchange vigorously competes for order flow and market share, were not subject to any such diligence or transparency in setting their baseline non-transaction fees, most of which were put in place before the Staff Guidance.[29]

As detailed below, the Exchange recently calculated its aggregate annual costs for providing Purge Ports to be $910,413 (or approximately $75,868 per month, rounded to the nearest dollar when dividing the annual cost by 12 months). In order to cover the aggregate costs of providing Purge Ports to its Market Makers going forward and to make a modest profit, as described below, the Exchange proposes to modify its Fee Schedule to charge a fee of $300 per Matching Engine for Purge Ports.

In 2019, the Exchange completed a study of its aggregate costs to produce market data and connectivity (the ''Cost Analysis'').[30] The Cost Analysis required a detailed analysis of the Exchange's aggregate baseline costs, including a determination and allocation of costs for core services provided by the Exchange—transaction execution, market data, membership services, physical connectivity, and port access (which provide order entry, cancellation and modification functionality, risk and purge functionality, the ability to receive drop copies, and other functionality). The Exchange separately divided its costs between those costs necessary to deliver each of these core services, including infrastructure, software, human resources (*i.e.,* personnel), and certain general and administrative expenses (''cost drivers''). The Exchange recently update its Cost Analysis using its 2024 estimated budget as described below.

As an initial step, the Exchange determined the total cost for the Exchange and the affiliated markets for each cost driver as part of its 2024 budget review process. The 2024 budget review is a company-wide process that occurs over the course of many months, includes meetings among senior management, department heads, and the Finance Team. Each department head is required to send a ''bottom up'' budget to the Finance Team allocating costs at the profit and loss account and vendor levels for the Exchange and its affiliated markets based on a number of factors, including server counts, additional hardware and software utilization, current or anticipated functional or non-functional development projects, capacity needs, end-of-life or end-of-service intervals, number of members, market model (*e.g.,* price time or pro-rata, simple only or simple and complex markets, auction functionality, etc.), which may impact message traffic, individual system architectures that impact platform size,[31] storage needs, dedicated infrastructure versus shared infrastructure allocated per platform based on the resources required to support each platform, number of available connections, and employees allocated time. All of these factors result in different allocation percentages among the Exchange and its affiliated markets, *i.e.,* the different percentages of the overall cost driver allocated to the Exchange and its affiliated markets will cause the dollar amount of the overall cost allocated among the Exchange and its affiliated markets to also differ. Because the Exchange's parent company currently owns and operates four separate and distinct marketplaces, the Exchange must determine the costs associated with each actual market—as opposed to the Exchange's parent company simply concluding that all costs drivers are the same at each individual marketplace and dividing total cost by four (4) (evenly for each marketplace). Rather, the Exchange's parent company determines an accurate cost for each marketplace, which results in different allocations and amounts across exchanges for the same cost drivers, due to the unique factors of each marketplace as described above. This allocation methodology also ensures that no cost would be allocated

[20] 15 U.S.C. 78f(b).

[21] 15 U.S.C. 78f(b)(5).

[22] 15 U.S.C. 78f(b)(4).

[23] 15 U.S.C. 78s(b)(1).

[24] 17 CFR 240.19b–4.

[25] 15 U.S.C. 78f(b).

[26] 15 U.S.C. 78f(b)(4).

[27] 15 U.S.C. 78f(b)(5).

[28] 15 U.S.C. 78f(b)(8).

[29] *See* Staff Guidance on SRO Rule Filings Relating to Fees (May 21, 2019), *available at https://www.sec.gov/tm/staff-guidance-sro-rule-filings-fees (the ''Staff Guidance'').*

[30] The Exchange frequently updates it Cost Analysis as strategic initiatives change, costs increase or decrease, and market participant needs and trading activity changes. The Exchange's most recent Cost Analysis was conducted ahead of this filing.

[31] For example, MIAX maintains 24 matching engines, MIAX Pearl Options maintains 12 matching engines, MIAX Pearl Equities maintains 24 matching engines, and MIAX Emerald maintains 12 matching engines.

twice or double-counted between the Exchange and its affiliated markets. The Finance Team then consolidates the budget and sends it to senior management, including the Chief Financial Officer and Chief Executive Officer, for review and approval. Next, the budget is presented to the Board of Directors and the Finance and Audit Committees for each exchange for their approval. The above steps encompass the first step of the cost allocation process.

The next step involves determining what portion of the cost allocated to the Exchange pursuant to the above methodology is to be allocated to each core service, *e.g.,* connectivity and ports, market data, and transaction services. The Exchange and its affiliated markets adopted an allocation methodology with thoughtful and consistently applied principles to guide how much of a particular cost amount allocated to the Exchange should be allocated within the Exchange to each core service. This is the final step in the cost allocation process and is applied to each of the cost drivers set forth below.

This next level of the allocation methodology at the individual exchange level also took into account factors similar to those set forth under the first step of the allocation methodology process described above, to determine the appropriate allocation to connectivity or market data versus allocations for other services. This allocation methodology was developed through an assessment of costs with senior management intimately familiar with each area of the Exchange's operations. After adopting this allocation methodology, the Exchange then applied an allocation of each cost driver to each core service, resulting in the cost allocations described below. Each of the below cost allocations is unique to the Exchange and represents a percentage of overall cost that was allocated to the Exchange pursuant to the initial allocation described above.

By allocating segmented costs to each core service, the Exchange was able to estimate by core service the potential margin it might earn based on different fee models. The Exchange notes that as a non-listing venue it has five primary sources of revenue that it can potentially use to fund its operations: transaction fees, fees for connectivity and port services, membership fees, regulatory fees, and market data fees. Accordingly, the Exchange must cover its expenses from these five primary sources of revenue. The Exchange also notes that as a general matter each of these sources of revenue is based on services that are interdependent. For instance, the Exchange's system for executing transactions is dependent on physical hardware and connectivity; only Members and parties that they sponsor to participate directly on the Exchange may submit orders to the Exchange; many Members (but not all) consume market data from the Exchange in order to trade on the Exchange; and, the Exchange consumes market data from external sources in order to comply with regulatory obligations. Accordingly, given this interdependence, the allocation of costs to each service or revenue source required judgment of the Exchange and was weighted based on estimates of the Exchange that the Exchange believes are reasonable, as set forth below. While there is no standardized and generally accepted methodology for the allocation of an exchange's costs, the Exchange's methodology is the result of an extensive review and analysis and will be consistently applied going forward for any other potential fee proposals. In the absence of the Commission attempting to specify a methodology for the allocation of exchanges' interdependent costs, the Exchange will continue to be left with its best efforts to attempt to conduct such an allocation in a thoughtful and reasonable manner.

Through the Exchange's extensive updated Cost Analysis, which was again recently further refined, the Exchange analyzed every expense item in the Exchange's general expense ledger to determine whether each such expense relates to the provision of connectivity and port services, and, if such expense did so relate, what portion (or percentage) of such expense actually supports the provision of Purge Port services, and thus bears a relationship that is, ''in nature and closeness,'' directly related to Purge Port services. In turn, the Exchange allocated certain costs more to physical connectivity and others to ports, while certain costs were only allocated to such services at a very low percentage or not at all, using consistent allocation methodologies as described above. Based on this analysis, the Exchange estimates that the aggregate monthly cost to provide Purge Port services is $75,868, as further detailed below.

Costs Related To Offering Purge Ports

The following chart details the individual line-item costs considered by the Exchange to be related to offering Purge Ports as well as the percentage of the Exchange's overall costs that such costs represent for each cost driver (*e.g.,* as set forth below, the Exchange allocated approximately 2.2% of its overall Human Resources cost to offering Purge Ports).

Cost drivers	Allocated annual cost [a]	Allocated monthly cost [b]	% of all
Human Resources	$492,357	$41,030	2.2
Connectivity (external fees, cabling, switches, etc.)	1,036	86	1.1
Internet Services and External Market Data	16,081	1,340	2.1
Data Center	31,102	2,592	2.1
Hardware and Software Maintenance and Licenses	42,539	3,545	2.1
Depreciation	82,610	6,884	1.9
Allocated Shared Expenses	244,688	20,391	2.8
Total	910,413	75,868	2.3

[a] The Annual Cost includes figures rounded to the nearest dollar.
[b] The Monthly Cost was determined by dividing the Annual Cost for each line item by twelve (12) months and rounding up or down to the nearest dollar.

Below are additional details regarding each of the line-item costs considered by the Exchange to be related to offering Purge Ports. While some costs were attempted to be allocated as equally as possible among the Exchange and its affiliated markets, the Exchange notes that some of its cost allocation percentages for certain cost drivers differ when compared to the same cost drivers for the Exchange's affiliated markets in their similar proposed fee changes for Purge Ports. This is because the Exchange's cost allocation methodology utilizes the actual

projected costs of the Exchange (which are specific to the Exchange and are independent of the costs projected and utilized by the Exchange's affiliated markets) to determine its actual costs, which may vary across the Exchange and its affiliated markets based on factors that are unique to each marketplace. The Exchange provides additional explanation below (including the reason for the deviation) for the significant differences.

Human Resources

The Exchange notes that it and its affiliated markets anticipate that by year-end 2024, there will be 289 employees (excluding employees at non-options/equities exchange subsidiaries of Miami International Holdings, Inc. (''MIH''), the holding company of the Exchange and its affiliated markets), and each department leader has direct knowledge of the time spent by each employee with respect to the various tasks necessary to operate the Exchange. Specifically, twice a year, and as needed with additional new hires and new project initiatives, in consultation with employees as needed, managers and department heads assign a percentage of time to every employee and then allocate that time amongst the Exchange and its affiliated markets to determine each market's individual Human Resources expense. Then, managers and department heads assign a percentage of each employee's time allocated to the Exchange into buckets including network connectivity, ports, market data, and other exchange services. This process ensures that every employee is 100% allocated, ensuring there is no double counting between the Exchange and its affiliated markets.

For personnel costs (Human Resources), the Exchange calculated an allocation of employee time for employees whose functions include providing and maintaining Purge Ports and performance thereof (primarily the Exchange's network infrastructure team, which spends most of their time performing functions necessary to provide port and connectivity services). As described more fully above, the Exchange's parent company allocates costs to the Exchange and its affiliated markets and then a portion of the Human Resources costs allocated to the Exchange is then allocated to port services. From that portion allocated to the Exchange that applied to ports, the Exchange then allocated a weighted average of 2.7% of each employee's time from the above group to Purge Ports.

The Exchange also allocated Human Resources costs to provide Purge Ports to a limited subset of personnel with ancillary functions related to establishing and maintaining such ports (such as information security, sales, membership, and finance personnel). The Exchange allocated cost on an employee-by-employee basis (*i.e.,* only including those personnel who support functions related to providing Purge Ports) and then applied a smaller allocation to such employees' time to Purge Ports (1.2%). This other group of personnel with a smaller allocation of Human Resources costs also have a direct nexus to Purge Ports, whether it is a sales person selling port services, finance personnel billing for port services or providing budget analysis, or information security ensuring that such ports are secure and adequately defended from an outside intrusion.

The estimates of Human Resources cost were therefore determined by consulting with such department leaders, determining which employees are involved in tasks related to providing Purge Ports, and confirming that the proposed allocations were reasonable based on an understanding of the percentage of time such employees devote to those tasks. This includes personnel from the Exchange departments that are predominately involved in providing Purge Ports: Business Systems Development, Trading Systems Development, Systems Operations and Network Monitoring, Network and Data Center Operations, Listings, Trading Operations, and Project Management. Again, the Exchange allocated 2.7% of each of their employee's time assigned to the Exchange for Purge Ports, as stated above. Employees from these departments perform numerous functions to support Purge Ports, such as the installation, re-location, configuration, and maintenance of Purge Ports and the hardware they access. This hardware includes servers, routers, switches, firewalls, and monitoring devices. These employees also perform software upgrades, vulnerability assessments, remediation and patch installs, equipment configuration and hardening, as well as performance and capacity management. These employees also engage in research and development analysis for equipment and software supporting Purge Ports and design, and support the development and on-going maintenance of internally-developed applications as well as data capture and analysis, and Member and internal Exchange reports related to network and system performance. The above list of employee functions is not exhaustive of all the functions performed by Exchange employees to support Purge Ports, but illustrates the breath of functions those employees perform in support of the above cost and time allocations.

Lastly, the Exchange notes that senior level executives' time was only allocated to the Purge Ports related Human Resources costs to the extent that they are involved in overseeing tasks related to providing Purge Ports. The Human Resources cost was calculated using a blended rate of compensation reflecting salary, equity and bonus compensation, benefits, payroll taxes, and 401(k) matching contributions.

Connectivity (External Fees, Cabling, Switches, etc.)

The Connectivity cost driver includes external fees paid to connect to other exchanges and third parties, cabling and switches required to operate the Exchange. The Connectivity cost driver is more narrowly focused on technology used to complete connections to the Exchange and to connect to external markets. The Exchange notes that its connectivity to external markets vendors is required in order to receive market data to run the Exchange's matching engine and basic operations compliant with existing regulations, primarily Regulation NMS.

The Exchange relies on various connectivity providers for connectivity to the entire U.S. options industry, and infrastructure services for critical components of the network that are necessary to provide and maintain its System Networks and access to its System Networks via 10Gb ULL connectivity. Specifically, the Exchange utilizes connectivity providers to connect to other national securities exchanges and the Options Price Reporting Authority (''OPRA''). The Exchange understands that these service providers provide services to most, if not all, of the other U.S. exchanges and other market participants. Connectivity provided by these service providers is critical to the Exchanges daily operations and performance of its System Networks which includes Purge Ports. Without these services providers, the Exchange would not be able to connect to other national securities exchanges, market data providers or OPRA and, therefore, would not be able to operate and support its System Networks, including Purge Ports. In addition, the connectivity is necessary for the Exchange to notify OPRA and other market participants that an order has been cancelled, and that quotes may have been cancelled as a result of a Member purging quotes via their Purge Port. Also, like other types of ports

offered by the Exchange, Purge Ports leverage the Exchange's existing 10Gb ULL connectivity, which also relies on connectivity to other national securities exchanges and OPRA. The Exchange does not employ a separate fee to cover its connectivity provider expense and recoups that expense, in part, by charging for Purge Ports.

Internet Services and External Market Data

The next cost driver consists of internet services and external market data. Internet services includes third-party service providers that provide the internet, fiber and bandwidth connections between the Exchange's networks, primary and secondary data centers, and office locations in Princeton and Miami. For purposes of Purge Ports, the Exchange also includes a portion of its costs related to external market data. External market data includes fees paid to third parties, including OPRA, to receive and consume market data from other markets. The Exchange includes external market data costs towards Purge Ports because such market data is necessary to offer certain services related to such ports, such as checking for market conditions (*e.g.,* halted securities). External market data is also consumed at the Matching Engine level for, among other things, as validating quotes on entry against the NBBO. Purge Ports are a component of the Matching Engine, and used by market participants to cancel multiple resting quotes within the Matching Engine. While resting, the Exchange uses external market data to manage those quotes, such as preventing trade-throughs, and those quotes are also reported to OPRA for inclusion in this consolidated data stream. The Exchange also must notify OPRA and other market participants that an order has been cancelled, and that quotes may have been cancelled as a result of a Member purging quotes via their Purge Port. Thus, since market data from other exchanges is consumed by the Matching Engine to validate quotes and check market conditions, the Exchange believes it is reasonable to allocate a small amount of such costs to Purge Ports.

For the reasons set forth above, the Exchange believes it is reasonable to allocate a small amount of such costs to Purge Ports since market data from other exchanges is consumed at the Exchange's Purge Port level to validate purge messages and the necessity to cancel a resting quote via a purge message or via some other means.

Data Center

Data Center costs includes an allocation of the costs the Exchange incurs to provide Purge Ports in the third-party data centers where it maintains its equipment as well as related costs for market data to then enter the Exchange's system (the Exchange does not own the Primary Data Center or the Secondary Data Center, but instead, leases space in data centers operated by third parties).

Hardware and Software Maintenance and Licenses

Hardware and Software Licenses includes hardware and software licenses used to operate and monitor physical assets necessary to offer Purge Ports for each Matching Engine of the Exchange.

Depreciation

The vast majority of the software the Exchange uses to provide Ports has been developed in-house and the cost of such development, which takes place over an extended period of time and includes not just development work, but also quality assurance and testing to ensure the software works as intended, is depreciated over time once the software is activated in the production environment. Hardware used to provide Purge Ports includes equipment used for testing and monitoring of order entry infrastructure and other physical equipment the Exchange purchased and is also depreciated over time.

All hardware and software, which also includes assets used for testing and monitoring of order entry infrastructure, were valued at cost, depreciated or leased over periods ranging from three to five years. Thus, the depreciation cost primarily relates to servers necessary to operate the Exchange, some of which is owned by the Exchange and some of which is leased by the Exchange in order to allow efficient periodic technology refreshes. The Exchange allocated 1.9% of all depreciation costs to providing Purge Ports. The Exchange allocated depreciation costs for depreciated software necessary to operate the Exchange because such software is related to the provision of Purge Ports. As with the other allocated costs in the Exchange's updated Cost Analysis, the Depreciation cost driver was therefore narrowly tailored to depreciation related to Purge Ports.

Allocated Shared Expenses

Finally, a portion of general shared expenses was allocated to overall Purge Port costs as without these general shared costs the Exchange would not be able to operate in the manner that it does and provide Purge Ports. The costs included in general shared expenses include general expenses of the Exchange, including office space and office expenses (*e.g.,* occupancy and overhead expenses), utilities, recruiting and training, marketing and advertising costs, professional fees for legal, tax and accounting services (including external and internal audit expenses), and telecommunications costs. The Exchange again notes that the cost of paying directors to serve on its Board of Directors is included in the calculation of Allocated Shared Expenses, and thus a portion of such overall cost amounting to less than 3% of the overall cost for directors was allocated to providing Purge Ports.

Approximate Cost for Purge Ports per Month

Based on projected 2024 data, the total monthly cost allocated to Purge Ports of $75,868 was divided by the total number of Matching Engines in which Market Makers used Purge Ports for the month of December 2023, which was 291, resulting in an approximate cost of $261 per Matching Engine per month for Purge Port usage (when rounding to the nearest dollar). The Exchange notes that the flat fee of $300 per month per Matching Engine entitles each Market Maker to two Purge Ports per Matching Engine. The majority of Market Makers are connected to all twenty-four of the Exchange's Matching Engines and utilize Purge Ports on each Matching Engine, except one Market Maker, which only utilizes Purge Ports on three Matching Engines.

Cost Analysis—Additional Discussion

In conducting its Cost Analysis, the Exchange did not allocate any of its expenses in full to any core services (including Purge Ports) and did not double-count any expenses. Instead, as described above, the Exchange allocated applicable cost drivers across its core services and used the same Cost Analysis to form the basis of this proposal. For instance, in calculating the Human Resources expenses to be allocated to Purge Ports based upon the above described methodology, the Exchange has a team of employees dedicated to network infrastructure and with respect to such employees the Exchange allocated network infrastructure personnel with a higher percentage of the cost of such personnel (19.6%) given their focus on functions necessary to provide Ports. The salaries of those same personnel were allocated only 2.7 to Purge Ports and the remaining 97.3% was allocated to connectivity, other port services, transaction services, membership

services and market data. The Exchange did not allocate any other Human Resources expense for providing Purge Ports to any other employee group, outside of a smaller allocation of 1.2% for Purge Ports, of the cost associated with certain specified personnel who work closely with and support network infrastructure personnel. This is because a much wider range of personnel are involved in functions necessary to offer, monitor and maintain Purge Ports but the tasks necessary to do so are not a primary or full-time function.

In total, the Exchange allocated 2.2% of its personnel costs to providing Purge Ports. In turn, the Exchange allocated the remaining 97.8% of its Human Resources expense to membership services, transaction services, connectivity services, other port services and market data. Thus, again, the Exchange's allocations of cost across core services were based on real costs of operating the Exchange and were not double-counted across the core services or their associated revenue streams.

As another example, the Exchange allocated depreciation expense to all core services, including Purge Ports, but in different amounts. The Exchange believes it is reasonable to allocate the identified portion of such expense because such expense includes the actual cost of the computer equipment, such as dedicated servers, computers, laptops, monitors, information security appliances and storage, and network switching infrastructure equipment, including switches and taps that were purchased to operate and support the network. Without this equipment, the Exchange would not be able to operate the network and provide Purge Port services to its Market Makers. However, the Exchange did not allocate all of the depreciation and amortization expense toward the cost of providing Purge Port services, but instead allocated approximately 1.9% of the Exchange's overall depreciation and amortization expense to Purge Ports. The Exchange allocated the remaining depreciation and amortization expense (approximately 98.1%) toward the cost of providing transaction services, membership services, connectivity services, other port services, and market data.

The Exchange notes that its revenue estimates are based on projections across all potential revenue streams and will only be realized to the extent such revenue streams actually produce the revenue estimated. The Exchange does not yet know whether such expectations will be realized. For instance, in order to generate the revenue expected from Purge Ports, the Exchange will have to be successful in retaining existing Market Makers that wish to maintain Purge Ports or in obtaining new Market Makers that will purchase such services. Similarly, the Exchange will have to be successful in retaining a positive net capture on transaction fees in order to realize the anticipated revenue from transaction pricing.

The Exchange notes that the Cost Analysis is based on the Exchange's 2024 fiscal year of operations and projections. It is possible, however, that actual costs may be higher or lower. To the extent the Exchange sees growth in use of connectivity services it will receive additional revenue to offset future cost increases. However, if use of port services is static or decreases, the Exchange might not realize the revenue that it anticipates or needs in order to cover applicable costs. Accordingly, the Exchange is committing to conduct a one-year review after implementation of these fees. The Exchange expects that it may propose to adjust fees at that time, to increase fees in the event that revenues fail to cover costs and a reasonable mark-up of such costs. Similarly, the Exchange may propose to decrease fees in the event that revenue materially exceeds our current projections. In addition, the Exchange will periodically conduct a review to inform its decision making on whether a fee change is appropriate (*e.g.,* to monitor for costs increasing/decreasing or subscribers increasing/decreasing, etc. in ways that suggest the then-current fees are becoming dislocated from the prior cost-based analysis) and would propose to increase fees in the event that revenues fail to cover its costs and a reasonable mark-up, or decrease fees in the event that revenue or the mark-up materially exceeds our current projections. In the event that the Exchange determines to propose a fee change, the results of a timely review, including an updated cost estimate, will be included in the rule filing proposing the fee change. More generally, the Exchange believes that it is appropriate for an exchange to refresh and update information about its relevant costs and revenues in seeking any future changes to fees, and the Exchange commits to do so.

Projected Revenue [32]

The proposed fees will allow the Exchange to cover certain costs incurred by the Exchange associated with providing and maintaining necessary hardware and other network infrastructure as well as network monitoring and support services; without such hardware, infrastructure, monitoring and support the Exchange would be unable to provide port services. Much of the cost relates to monitoring and analysis of data and performance of the network via the subscriber's connection(s). The above cost, namely those associated with hardware, software, and human capital, enable the Exchange to measure network performance with nanosecond granularity. These same costs are also associated with time and money spent seeking to continuously improve the network performance, improving the subscriber's experience, based on monitoring and analysis activity. The Exchange routinely works to improve the performance of the network's hardware and software. The costs associated with maintaining and enhancing a state-of-the-art exchange network is a significant expense for the Exchange, and thus the Exchange believes that it is reasonable and appropriate to help offset those costs by amending fees for Purge Port services. Subscribers, particularly those of Purge Ports, expect the Exchange to provide this level of support so they continue to receive the performance they expect. This differentiates the Exchange from its competitors. As detailed above, the Exchange has five primary sources of revenue that it can potentially use to fund its operations: transaction fees, fees for connectivity services (connections and ports), membership and regulatory fees, and market data fees. Accordingly, the Exchange must cover its expenses from these five primary sources of revenue.

The Exchange's Cost Analysis estimates the annual cost to provide Purge Port services will equal $910,413. Based on current Purge Port services usage, the Exchange would generate annual revenue of approximately $1,047,600. The Exchange believes this represents a modest profit of 13.1% when compared to the cost of providing Purge Port services, which could decrease over time.[33]

Based on the above discussion, the Exchange believes that even if the Exchange earns the above revenue or incrementally more or less, the

[32] For purposes of calculating projected 2024 revenue for Purge Ports, the Exchange used revenues for the most recently completed full month.

[33] Assuming the U.S. inflation rate continues at its current rate, the Exchange believes that the projected profit margins in this proposal will decrease; however, the Exchange cannot predict with any certainty whether the U.S. inflation rate will continue at its current rate or its impact on the Exchange's future profits or losses. *See, e.g., https://www.usinflationcalculator.com/inflation/current-inflation-rates/* (last visited January 18, 2024).

proposed fees are fair and reasonable because they will not result in pricing that deviates from that of other exchanges or a supra-competitive profit, when comparing the total expense of the Exchange associated with providing Purge Port services versus the total projected revenue of the Exchange associated with network Purge Port services.

Comparable Fee Filing Without Cost Justification

The Exchange further supports the proposed fee change based on a recent 2023 proposal filed with the Commission by another national securities exchange, Phlx, to adopt fees for purge ports, which the Commission deemed acceptable by not suspending that filing during the applicable 60-day review period.[34] In fact, the same justification Phlx utilized was also used in similar recent proposals to adopt fees for purge ports by two of Phlx's affiliated exchanges.[35] Therefore, the Exchange utilizes the below justification based on this recent Commission precedent from approximately a few months ago.

The Exchange believes that the proposed rule change would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market because offering Market Makers optional service and flexible fee structures which promotes choice, flexibility, efficiency, and competition. The Exchange believes Purge Ports enhance Market Makers' ability to manage quotes, which would, in turn, improve their risk controls to the benefit of all market participants. The Exchange believes that Purge Ports foster cooperation and coordination with persons engaged in facilitating transactions in securities because designating Purge Ports for purge messages may encourage better use of such ports. This may, concurrent with the ports that carry quotes and other information necessary for market making activities, enable more efficient, as well as fair and reasonable, use of Market Makers' resources. Similar connectivity and functionality is offered by options exchanges, including the Exchange's own affiliated options exchanges, and other equities exchanges.[36] The Exchange believes that proper risk management, including the ability to efficiently cancel multiple quotes quickly when necessary, is similarly valuable to firms that trade in the equities market, including Market Makers that have heightened quoting obligations that are not applicable to other market participants.

Purge Ports do not relieve Market Makers of their quoting obligations or firm quote obligations under Regulation NMS Rule 602.[37] Specifically, any interest that is executable against a Member's or Market Maker's quotes that is received by the Exchange prior to the time of the removal of quotes request will automatically execute. Market Makers that purge their quotes will not be relieved of the obligation to provide continuous two-sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against a Market Maker for failing to meet their continuous quoting obligation each trading day.[38]

The Exchange is not the only exchange to offer this functionality and to charge associated fees.[39] The Exchange believes the proposed fee for Purge Ports is reasonable because it is lower than the fees currently charged by other exchanges for similar port functionality. For example, BZX and EDGX charge a fee of $750 per purge port per month, Cboe charges $850 per purge port per month, Nasdaq GEMX assesses its members $1,250 per SQF Purge Port per month, subject to a monthly cap of $17,500 for SQF Purge Ports and SQF Ports.[40]

The Exchange believes it is reasonable to charge $300 per month for Purge Ports as proposed because such ports were specially developed to allow Market Makers to send a single message to cancel multiple quotes, thereby assisting firms in effectively managing risk. The Exchange also believes that a Member that chooses to utilize Purge Ports may, in the future, reduce their need for additional ports by consolidating cancel messages to their dedicated Purge Port and thus freeing up some capacity of the existing logical ports and, therefore, allowing for increased message traffic without paying for additional logical ports. Purge Ports provide the ability to cancel multiple quotes with a single message over a dedicated port, and, therefore, may create efficiencies for firms and provide a more efficient solution for them based on their risk management needs. In addition, Purge Port requests may cancel quotes submitted over numerous ports and contain added functionality to purge only a subset of these quotes. Effective risk management is important both for individual market participants that choose to utilize risk features provided by the Exchange, as well as for the market in general. As a result, the Exchange believes that it is appropriate to charge fees for such functionality as doing so aids in the maintenance of a fair and orderly market.

The Exchange also believes that its ability to set fees for Purge Ports is subject to significant substitution-based forces because Market Makers are able to rely on currently available services both free and those they receive when using existing trading protocols. If the value of the efficiency introduced through the Purge Port functionality is not worth the proposed fees, Market Makers will simply continue to rely on the existing functionality and not pay for Purge Ports. In that regard, Market Makers may currently cancel individual quotes through the existing functionality, such as through the use of a mass cancel message by which a Market Maker may request that the Exchange remove all or a subset of its quotations and block all or a subset of its new inbound quotations. Already Market Makers can also cancel quotes individually and by utilizing Exchange protocols that allow them to develop proprietary systems that can send cancel messages at a high rate.[41] In addition, the Exchange already provides similar ability to mass cancel quotes through the Exchange's risk controls, which are offered at no charge that enables Market Makers to establish pre-determined levels of risk exposure, and can be used to cancel all open quotes.[42] Further, like Purge Ports, Members may also cancel all or a subset of its orders in the

[34] *See supra* note 3.

[35] *See* Securities Exchange Act Release Nos. 98770 (October 18, 2023), 88 FR 73065 (October 24, 2023) (SR–BX–2023–026); *and* 98768 (October 18, 2023), 88 FR 73056 (October 24, 2023) (SR–NASDAQ–2023–041). While the Exchange included a cost-based justification in this Third Proposal, the Exchange continues to believe that such justification puts the Exchange on an unlevel playing field with its competitors because Purge Ports are optional functionality and no cost-based justification was provided by Phlx or any of its affiliates in their same filings to adopt fees for purge ports. Nor does the Staff Guidance issued by the Commission Staff include such a requirement. *See supra* note 29.

[36] *See supra* notes 3 and 10. *See also* Securities Exchange Act Release No. 77613 (April 13, 2016), 81 FR 23023 (April 19, 2016). *See* also Securities Exchange Act Release Nos. 79956 (February 3, 2017), 82 FR 10102 (February 9, 2017) (SR–BatsBZX–2017–05); 79957 (February 3, 2017), 82 FR 10070 (February 9, 2017) (SR–BatsEDGX–2017–07); 83201 (May 9, 2018), 83 FR 22546 (May 15, 2018) (SR–C2–2018–006).

[37] *See* Exchange Rule 604. *See also generally* Chapter VI of the Exchange's Rules.

[38] *Id.*

[39] *See supra* notes 3 and 10.

[40] *See supra* note 10.

[41] Current Exchange port functionality supports cancelation rates that exceed one thousand messages per second and the Exchange's research indicates that certain Participants rely on such functionality and at times utilize such cancelation rates.

[42] *See* Exchange Rule 532.

System, by firm name or by MPID, over their existing ports, or by requesting the Exchange staff to effect such cancellations.[43]

Similarly, Market Makers may use cancel-on-disconnect control when they experience a disruption in their connection to the Exchange and immediately cancel all pending quotes in the Exchange's System.[44] Finally, this existing purging functionality will allow Market Makers to achieve essentially the same outcome in canceling quotes as they would by utilizing the Purge Ports. Accordingly, the Exchange believes that the proposed Purge Port fee is reasonable because it is related to the efficiency of Purge Ports and to other means and services already available which are either free or already a part of a fee assessed to the Market Maker for existing connectivity. Accordingly, because Purge Ports provide additional optional functionality, excessive fees would simply serve to reduce or eliminate demand for this optional product.

The Exchange also believes that offering Purge Ports at the Matching Engine level promotes risk management across the industry, and thereby facilitates investor protection. Some market participants, in particular the larger firms, could and do build similar risk functionality (as described above) in their trading systems that permit the flexible cancellation of quotes entered on the Exchange at a high rate. Offering Matching Engine level protections ensures that such functionality is widely available to all firms, including smaller firms that may otherwise not be willing to incur the costs and development work necessary to support their own customized mass cancel functionality.

As noted above, the Exchange is not the only exchange to offer dedicated Purge Ports, and the proposed rate is lower than that charged by other exchanges for similar functionality. The Exchange also believes that moving to a per Matching Engine fee is reasonable due to the Exchange's architecture that provides it the ability to provide two (2) Purge Ports per Matching Engine for a fee that would still be lower than competing exchanges that charge on a per port basis. Generally speaking, restricting the Exchange's ability to charge fees for these services discourages innovation and competition. Specifically in this case, the Exchange's inability to offer similar services to those offered by other exchanges, and charge reasonable and equitable fees for such services, would put the Exchange at a significant competitive disadvantage and, therefore, serve to restrict competition in the market—especially when other exchanges assess comparable fees higher than those proposed by the Exchange.

The Exchange believes that the proposed Purge Port fees are equitable because the proposed Purge Ports are completely voluntary as they relate solely to optional risk management functionality.

The Exchange also believes that the proposed amendments to its Fee Schedule are not unfairly discriminatory because they will apply uniformly to all Market Makers that choose to use the optional Purge Ports. Purge Ports are completely voluntary and, as they relate solely to optional risk management functionality, no Market Maker is required or under any regulatory obligation to utilize them. All Market Makers that voluntarily select this service option will be charged the same amount for the same services. All Market Makers have the option to select any connectivity option, and there is no differentiation among Market Makers with regard to the fees charged for the services offered by the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Purge Ports are completely voluntary and are available to all Market Makers on an equal basis at the same cost. While the Exchange believes that Purge Ports provide a valuable service, Market Makers can choose to purchase, or not purchase, these ports based on their own determination of the value and their business needs. No Market Maker is required or under any regulatory obligation to utilize Purge Ports. Accordingly, the Exchange believes that Purge Ports offer appropriate risk management functionality to firms that trade on the Exchange without imposing an unnecessary or inappropriate burden on competition.

Furthermore, the Exchange operates in a highly competitive environment, and its ability to price the Purge Ports is constrained by competition among exchanges that offer similar functionality. As discussed, there are currently a number of similar offers available to market participants for higher fees at other exchanges. Proposing fees that are excessively higher than established fees for similar functionality would simply serve to reduce demand for the Purge Ports, which as discussed, market participants are under no obligation to utilize. It could also cause firms to shift trading to other exchanges that offer similar functionality at a lower cost, adversely impacting the overall trading on the Exchange and reducing market share. In this competitive environment, potential purchasers are free to choose which, if any, similar product to purchase to satisfy their need for risk management. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

The Exchange also does not believe the proposal would cause any unnecessary or inappropriate burden on intermarket competition as other exchanges are free to introduce their own purge port functionality and lower their prices to better compete with the Exchange's offering. The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposal would apply uniformly to any market participant, in that it does not differentiate between Market Makers. The proposal would allow any interested Market Makers to purchase Purge Port functionality based on their business needs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange received one comment letter on the Initial Proposal and one comment letter on the Second Proposal, both from the same commenter.[45] This comment letters were submitted not only on these proposals, but also the proposals by the Exchange and its affiliates to amend fees for 10Gb ULL connectivity and certain ports. The Exchange received one other comment letter on the Second Proposal.[46] Overall, the Exchange believes that the issues raised by the first commenter are not germane to this proposal because they apply primarily to the other fee filings. Also, the commenters raised concerns with the current environment surrounding exchange non-transaction fee proposals that should be addressed by the Commission through rule making, or Congress, more holistically

[43] *See* Exchange Rule 519C(a).

[44] *See* Exchange Rule 519C(c).

[45] *See* letters from Thomas M. Merritt, Deputy General Counsel, Virtu Financial, Inc. (''Virtu''), to Vanessa Countryman, Secretary, Commission, dated November 8, 2023 and January 2, 2024.

[46] *See* letter from John C. Pickford, Counsel, Susquehanna International Group, LLP (''SIG''), to Vanessa Countryman, Secretary, Commission, dated January 4, 2024.

and not through an individual exchange fee filings. However, the commenters do raise one issue that concerns this proposal whereby it asserts that the Exchange's comparison to fees charged by other exchanges for similar ports is irrelevant and unpersuasive. The core of the issue raised is regarding the cost to connect to one exchange compared to the cost to connect to others. A thorough response to this comment would require the Exchange to obtain competitively sensitive information about other exchange architecture and how their members connect. The Exchange is not privy to this information. Further, the commenter compares the Exchange's proposed rate to other exchanges that offer purge port functionality across all matching engines for a single fee, but fails to provide the same comparison to other exchanges that charge for purge functionality like proposed here. The Exchange does not have insight into the technical architecture of other exchanges so it is difficult to ascertain the number of purge ports a firm would need to connect to another exchanges entire market. Therefore, the Exchange is limited to comparing its proposed fee to other exchanges' purge port fees as listed in their fee schedules.

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,[47] and Rule 19b–4(f)(2)[48] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–MIAX–2024–07 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–MIAX–2024–07. 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–MIAX–2024–07 and should be submitted on or before March 12, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[49]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–03338 Filed 2–16–24; 8:45 am]

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[47] 15 U.S.C. 78s(b)(3)(A)(ii).

[48] 17 CFR 240.19b–4(f)(2).

[49] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99529; File No. SR–EMERALD–2024–05]

Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule for Purge Ports

February 13, 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 January 31, 2024, MIAX Emerald, LLC (''MIAX Emerald'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the MIAX Emerald Options Exchange Fee Schedule (the ''Fee Schedule'') to amend fees for Purge Ports.[3]

The text of the proposed rule change is available on the Exchange's website at *https://www.miaxglobal.com/markets/us-options/emerald-options/rule-filings,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The proposed fee change is based on a recent proposal by Nasdaq Phlx LLC (''Phlx'') to adopt fees for purge ports. *See* Securities Exchange Act Release No. 97825 (June 30, 2023), 88 FR 43405 (July 7, 2023) (SR–Phlx–2023–28).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the fees for Purge Ports, which is a function enabling Market Makers [4] to cancel all open quotes or a subset of open quotes through a single cancel message. The Exchange currently provides Market Makers the option to purchase Purge Ports to assist in their quoting activity. Purge Ports provide Market Makers with the ability to send purge messages to the Exchange System.[5] Purge Ports are not capable of sending or receiving any other type of messages or information. The use of Purge Ports is completely optional and no rule or regulation requires that a Market Maker utilize them.

The Exchange initially filed the proposal on September 29, 2023 (EMERALD–2023–26) (the ''Initial Proposal'').[6] On November 22, 2023, the Exchange withdrew the Initial Proposal and replaced with a revised filing (SR–EMERALD–2023–29) (the ''Second Proposal'').[7] On January 31, 2024, the Exchange withdrew the Second Proposal and replaced it with this further revised filing (the ''Third Proposal'') (SR–EMERALD–2024–05).

The Exchange is including a cost analysis in this filing to justify the proposed fees. As described more fully below, the cost analysis includes, among other things, descriptions of how the Exchange allocated costs among it and its affiliated exchanges for similar proposed fee changes (separately between MIAX Pearl Options [8] and MIAX,[9] collectively referred to herein as the ''affiliated markets''), to ensure no cost was allocated more than once, as well as detail supporting its cost allocation processes and explanations as to why a cost allocation in this proposal may differ from the same cost allocation in similar proposals submitted by the affiliated markets. The proposed fees are intended to cover the Exchange's cost of providing Purge Ports with a reasonable mark-up over those costs.

* * * * *

Purge Port Fee Change

Unlike other options exchanges that charge fees for Purge Ports on a per port basis,[10] the Exchange assesses a flat fee of $1,500 per month, regardless of the number of Purge Ports utilized by a Market Maker. Currently, a Market Maker may request and be allocated two (2) Purge Ports per Matching Engine [11] to which it connects and not all Market Makers connect to all of the Exchange's Matching Engines.

The Exchange now proposes to amend the fee for Purge Ports to align more closely with other exchanges who charge on a per port basis by providing two (2) Purge Ports per Matching Engine for a monthly flat fee of $600 per month per Matching Engine. The only difference with a per port structure is that Market Makers receive two (2) Purge Ports per Matching Engine for the same proposed monthly fee, rather than being charged a separate fee for each Purge Port. The Exchange proposes to charge the proposed fee for Purge Ports per Matching Engine, instead on a per Purge Port basis, due to its System architecture which provides two (2) Purge Ports per Matching Engine for redundancy purposes. In addition, the proposed fee is lower than the comparable fee charged by competing exchanges that also charge on a per port basis, notwithstanding that the Exchange is providing up to two (2) Purge Ports for that same lower fee.[12]

Similar to a per port charge, Market Makers are able to select the Matching Engines that they want to connect to,[13] based on the business needs of each Market Maker, and pay the applicable fee based on the number of Matching Engines and ports utilized. The Exchange believes that the proposed fee provides Market Makers with flexibility to control their Purge Port costs based on the number of Matching Engines each Marker Maker elects to connect to based on each Market Maker's business needs.

* * * * *

A logical port represents a port established by the Exchange within the Exchange's System for trading and billing purposes. Each logical port grants a Member [14] the ability to accomplish a specific function, such as order entry, order cancellation, access to execution reports, and other administrative information.

Purge Ports are designed to assist Market Makers [15] in the management of, and risk control over, their quotes, particularly if the firm is dealing with a large number of securities. For example, if a Market Maker detects market indications that may influence the execution potential of their quotes, the Market Maker may use Purge Ports to reduce uncertainty and to manage risk by purging all quotes in a number of securities. This allows Market Makers to seamlessly avoid unintended executions, while continuing to evaluate the market, their positions, and their risk levels. Purge Ports are used by Market Makers that conduct business activity that exposes them to a large amount of risk across a number of securities. Purge Ports enable Market Makers to cancel all open quotes, or a subset of open quotes through a single cancel message. The Exchange notes that Purge Ports increase efficiency of already existing functionality enabling the cancellation of quotes.

The Exchange operates highly performant systems with significant throughput and determinism which allows participants to enter, update and cancel quotes at high rates. Market Makers may currently cancel individual quotes through the existing

[4] The term ''Market Makers'' refers to Lead Market Makers (''LMMs''), Primary Lead Market Makers (''PLMMs''), and Registered Market Makers (''RMMs'') collectively. *See* Exchange Rule 100.

[5] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[6] *See* Securities Exchange Act Release No. 98734 (October 12, 2023), 88 FR 71894 (October 18, 2023) (SR–EMERALD–2023–26).

[7] *See* Securities Exchange Act Release No. 99089 (December 5, 2023), 88 FR 85941 (December 11, 2023) (SR–EMERALD–2023–29).

[8] MIAX Pearl Options is the options market of MIAX PEARL, LLC (''MIAX Pearl''), which also operates an equities trading facility called MIAX Pearl Equities. *See* Exchange Rule 100 and MIAX Pearl Rule 1901.

[9] The term ''MIAX'' means Miami International Securities Exchange, LLC. *See* Exchange Rule 100.

[10] *See* Cboe BXZ Exchange, Inc. (''BZX'') Options Fee Schedule, Options Logical Port Fees, Purge Ports ($750 per purge port per month); Cboe EDGX Exchange, Inc. (''EDGX'') Options Fee Schedule, Options Logical Port Fees, Purge Ports ($750 per purge port per month); Cboe Exchange, Inc. (''Cboe'') Fee Schedule ($850 per purge port per month). *See also* Nasdaq GEMX, Options 7, Pricing Schedule, Section 6.C.(3). Nasdaq GEMX, LLC (''Nasdaq GEMX'') assesses its members $1,250 per SQF Purge Port per month, subject to a monthly cap of $17,500 for SQF Purge Ports and SQF Ports, applicable to market makers. *See also* Securities Exchange Act Release No. 97825 (June 30, 2023), 88 FR 43405 (July 7, 2023) (SR–Phlx–2023–28).

[11] A Matching Engine is a part of the Exchange's electronic system that processes options quotes and trades on a symbol-by-symbol basis. Some matching engines will process option classes with multiple root symbols, and other matching engines will be dedicated to one single option root symbol (for example, options on SPY will be processed by one single matching engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated matching engine. A particular root symbol may not be assigned to multiple matching engines. *See* the Definitions Section of the Fee Schedule.

[12] *See supra* note 10.

[13] The Exchange notes that each Matching Engine corresponds to a specified group of symbols. Certain Market Makers choose to only quote in certain symbols while other Market Makers choose to quote the entire market.

[14] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[15] Members seeking to become registered as a Market Maker must comply with the applicable requirements of Chapter VI of the Exchange's Rules.

functionality, such as through the use of a mass cancel message by which a Market Maker may request that the Exchange remove all or a subset of its quotations and block all or a subset of its new inbound quotations.[16] Other than Purge Ports being a dedicated line for cancelling quotations, Purge Ports operate in the same manner as a mass cancel message being sent over a different type of port. For example, like Purge Ports, mass cancellations sent over a logical port may be done at either the firm or MPID level. As a result, Market Makers can currently cancel quotes in rapid succession across their existing logical ports [17] or through a single cancel message, all open quotes or a subset of open quotes.

Similarly, Market Makers may also use cancel-on-disconnect control when they experience a disruption in connection to the Exchange to automatically cancel all quotes, as configured or instructed by the Member or Market Maker.[18] In addition, the Exchange already provides similar ability to mass cancel quotes through the Exchange's risk controls, which are offered at no charge and enables Market Makers to establish pre-determined levels of risk exposure, and can be used to cancel all open quotes.[19] Accordingly, the Exchange believes that the Purge Ports provide an efficient option as an alternative to already available services and enhance the Market Maker's ability to manage their risk.

The Exchange believes that market participants benefit from a dedicated purge mechanism for specific Market Makers and to the market as a whole. Market Makers will have the benefit of efficient risk management and purge tools. The market will benefit from potential increased quoting and liquidity as Market Makers may use Purge Ports to manage their risk more robustly. Only Market Makers that request Purge Ports would be subject to the proposed fees, and other Market Makers can continue to operate in exactly the same manner as they do today without dedicated Purge Ports, but with the additional purging capabilities described above.

Implementation Date

The proposed fees are effective beginning February 1, 2024.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[20] in general, and furthers the objectives of Section 6(b)(5) of the Act,[21] in particular, in that it is not designed to permit unfair discrimination among customers, brokers, or dealers. The Exchange also believes that its proposed fee is consistent with Section 6(b)(4) of the Act [22] because it represents an equitable allocation of reasonable dues, fees and other charges among market participants.

Cost Analysis

In general, the Exchange believes that exchanges, in setting fees of all types, should meet very high standards of transparency to demonstrate why each new fee or fee increase meets the Exchange Act requirements that fees be reasonable, equitably allocated, not unfairly discriminatory, and not create an undue burden on competition among members and markets. In particular, the Exchange believes that each exchange should take extra care to be able to demonstrate that these fees are based on its costs and reasonable business needs.

In proposing to charge fees for port services, the Exchange is especially diligent in assessing those fees in a transparent way against its own aggregate costs of providing the related service, and in carefully and transparently assessing the impact on Members—both generally and in relation to other Members, *i.e.,* to assure the fee will not create a financial burden on any participant and will not have an undue impact in particular on smaller Members and competition among Members in general. The Exchange believes that this level of diligence and transparency is called for by the requirements of Section 19(b)(1) under the Act,[23] and Rule 19b–4 thereunder,[24] with respect to the types of information exchanges should provide when filing fee changes, and Section 6(b) of the Act,[25] which requires, among other things, that exchange fees be reasonable and equitably allocated,[26] not designed to permit unfair discrimination,[27] and that they not impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[28] The Exchange notes that the legacy exchanges with whom the Exchange vigorously competes for order flow and market share, were not subject to any such diligence or transparency in setting their baseline non-transaction fees, most of which were put in place before the Staff Guidance.[29]

As detailed below, the Exchange recently calculated its aggregate annual costs for providing Purge Ports to be $822,969 (or approximately $68,581 per month, rounded to the nearest dollar when dividing the annual cost by 12 months). In order to cover the aggregate costs of providing Purge Ports to its Market Makers going forward and to make a modest profit, as described below, the Exchange proposes to modify its Fee Schedule to charge a fee of $600 per Matching Engine for Purge Ports.

In 2019, the Exchange completed a study of its aggregate costs to produce market data and connectivity (the ''Cost Analysis'').[30] The Cost Analysis required a detailed analysis of the Exchange's aggregate baseline costs, including a determination and allocation of costs for core services provided by the Exchange—transaction execution, market data, membership services, physical connectivity, and port access (which provide order entry, cancellation and modification functionality, risk and purge functionality, the ability to receive drop copies, and other functionality). The Exchange separately divided its costs between those costs necessary to deliver each of these core services, including infrastructure, software, human resources (*i.e.,* personnel), and certain general and administrative expenses (''cost drivers''). The Exchange recently update its Cost Analysis using its 2024 estimated budget as described below.

As an initial step, the Exchange determined the total cost for the Exchange and the affiliated markets for each cost driver as part of its 2024 budget review process. The 2024 budget review is a company-wide process that occurs over the course of many months, includes meetings among senior management, department heads, and the

[16] *See* Exchange Rule 519C(a) and (b).

[17] Current Exchange port functionality supports cancelation rates that exceed one thousand messages per second and the Exchange's research indicates that certain market participants rely on such functionality and at times utilize such cancelation rates.

[18] *See* Exchange Rule 519C(c).

[19] *See* Exchange Rule 532.

[20] 15 U.S.C. 78f(b).

[21] 15 U.S.C. 78f(b)(5).

[22] 15 U.S.C. 78f(b)(4).

[23] 15 U.S.C. 78s(b)(1).

[24] 17 CFR 240.19b–4.

[25] 15 U.S.C. 78f(b).

[26] 15 U.S.C. 78f(b)(4).

[27] 15 U.S.C. 78f(b)(5).

[28] 15 U.S.C. 78f(b)(8).

[29] *See* Staff Guidance on SRO Rule Filings Relating to Fees (May 21, 2019), *available at https://www.sec.gov/tm/staff-guidance-sro-rule-filings-fees* (the ''Staff Guidance'').

[30] The Exchange frequently updates it Cost Analysis as strategic initiatives change, costs increase or decrease, and market participant needs and trading activity changes. The Exchange's most recent Cost Analysis was conducted ahead of this filing.

Finance Team. Each department head is required to send a ''bottom up'' budget to the Finance Team allocating costs at the profit and loss account and vendor levels for the Exchange and its affiliated markets based on a number of factors, including server counts, additional hardware and software utilization, current or anticipated functional or non-functional development projects, capacity needs, end-of-life or end-of-service intervals, number of members, market model (*e.g.,* price time or pro-rata, simple only or simple and complex markets, auction functionality, etc.), which may impact message traffic, individual system architectures that impact platform size,[31] storage needs, dedicated infrastructure versus shared infrastructure allocated per platform based on the resources required to support each platform, number of available connections, and employees allocated time. All of these factors result in different allocation percentages among the Exchange and its affiliated markets, *i.e.,* the different percentages of the overall cost driver allocated to the Exchange and its affiliated markets will cause the dollar amount of the overall cost allocated among the Exchange and its affiliated markets to also differ. Because the Exchange's parent company currently owns and operates four separate and distinct marketplaces, the Exchange must determine the costs associated with each actual market—as opposed to the Exchange's parent company simply concluding that all costs drivers are the same at each individual marketplace and dividing total cost by four (4) (evenly for each marketplace). Rather, the Exchange's parent company determines an accurate cost for each marketplace, which results in different allocations and amounts across exchanges for the same cost drivers, due to the unique factors of each marketplace as described above. This allocation methodology also ensures that no cost would be allocated twice or double-counted between the Exchange and its affiliated markets. The Finance Team then consolidates the budget and sends it to senior management, including the Chief Financial Officer and Chief Executive Officer, for review and approval. Next, the budget is presented to the Board of Directors and the Finance and Audit Committees for each exchange for their approval. The above steps encompass the first step of the cost allocation process.

The next step involves determining what portion of the cost allocated to the Exchange pursuant to the above methodology is to be allocated to each core service, *e.g.,* connectivity and ports, market data, and transaction services. The Exchange and its affiliated markets adopted an allocation methodology with thoughtful and consistently applied principles to guide how much of a particular cost amount allocated to the Exchange should be allocated within the Exchange to each core service. This is the final step in the cost allocation process and is applied to each of the cost drivers set forth below.

This next level of the allocation methodology at the individual exchange level also took into account factors similar to those set forth under the first step of the allocation methodology process described above, to determine the appropriate allocation to connectivity or market data versus allocations for other services. This allocation methodology was developed through an assessment of costs with senior management intimately familiar with each area of the Exchange's operations. After adopting this allocation methodology, the Exchange then applied an allocation of each cost driver to each core service, resulting in the cost allocations described below. Each of the below cost allocations is unique to the Exchange and represents a percentage of overall cost that was allocated to the Exchange pursuant to the initial allocation described above.

By allocating segmented costs to each core service, the Exchange was able to estimate by core service the potential margin it might earn based on different fee models. The Exchange notes that as a non-listing venue it has five primary sources of revenue that it can potentially use to fund its operations: transaction fees, fees for connectivity and port services, membership fees, regulatory fees, and market data fees. Accordingly, the Exchange must cover its expenses from these five primary sources of revenue. The Exchange also notes that as a general matter each of these sources of revenue is based on services that are interdependent. For instance, the Exchange's system for executing transactions is dependent on physical hardware and connectivity; only Members and parties that they sponsor to participate directly on the Exchange may submit orders to the Exchange; many Members (but not all) consume market data from the Exchange in order to trade on the Exchange; and, the Exchange consumes market data from external sources in order to comply with regulatory obligations. Accordingly, given this interdependence, the allocation of costs to each service or revenue source required judgment of the Exchange and was weighted based on estimates of the Exchange that the Exchange believes are reasonable, as set forth below. While there is no standardized and generally accepted methodology for the allocation of an exchange's costs, the Exchange's methodology is the result of an extensive review and analysis and will be consistently applied going forward for any other potential fee proposals. In the absence of the Commission attempting to specify a methodology for the allocation of exchanges' interdependent costs, the Exchange will continue to be left with its best efforts to attempt to conduct such an allocation in a thoughtful and reasonable manner.

Through the Exchange's extensive updated Cost Analysis, which was again recently further refined, the Exchange analyzed every expense item in the Exchange's general expense ledger to determine whether each such expense relates to the provision of connectivity and port services, and, if such expense did so relate, what portion (or percentage) of such expense actually supports the provision of Purge Port services, and thus bears a relationship that is, ''in nature and closeness,'' directly related to Purge Port services. In turn, the Exchange allocated certain costs more to physical connectivity and others to ports, while certain costs were only allocated to such services at a very low percentage or not at all, using consistent allocation methodologies as described above. Based on this analysis, the Exchange estimates that the aggregate monthly cost to provide Purge Port services is $68,581, as further detailed below.

Costs Related to Offering Purge Ports

The following chart details the individual line-item costs considered by the Exchange to be related to offering Purge Ports as well as the percentage of the Exchange's overall costs that such costs represent for each cost driver (*e.g.,* as set forth below, the Exchange allocated approximately 2.2% of its overall Human Resources cost to offering Purge Ports).

[31] For example, MIAX maintains 24 matching engines, MIAX Pearl Options maintains 12 matching engines, MIAX Pearl Equities maintains 24 matching engines, and MIAX Emerald maintains 12 matching engines.

Cost drivers	Allocated annual cost [a]	Allocated monthly cost [b]	% of all
Human Resources	$491,123	$40,927	2.2
Connectivity (external fees, cabling, switches, etc.)	868	72	0.9
Internet Services and External Market Data	4,914	410	0.9
Data Center	20,379	1,698	1.3
Hardware and Software Maintenance and Licenses	16,268	1,356	0.9
Depreciation	36,917	3,076	1.0
Allocated Shared Expenses	252,500	21,042	2.9
Total	822,969	68,581	2.1

[a] The Annual Cost includes figures rounded to the nearest dollar.
[b] The Monthly Cost was determined by dividing the Annual Cost for each line item by twelve (12) months and rounding up or down to the nearest dollar.

Below are additional details regarding each of the line-item costs considered by the Exchange to be related to offering Purge Ports. While some costs were attempted to be allocated as equally as possible among the Exchange and its affiliated markets, the Exchange notes that some of its cost allocation percentages for certain cost drivers differ when compared to the same cost drivers for the Exchange's affiliated markets in their similar proposed fee changes for Purge Ports. This is because the Exchange's cost allocation methodology utilizes the actual projected costs of the Exchange (which are specific to the Exchange and are independent of the costs projected and utilized by the Exchange's affiliated markets) to determine its actual costs, which may vary across the Exchange and its affiliated markets based on factors that are unique to each marketplace. The Exchange provides additional explanation below (including the reason for the deviation) for the significant differences.

Human Resources

The Exchange notes that it and its affiliated markets anticipate that by year-end 2024, there will be 289 employees (excluding employees at non-options/equities exchange subsidiaries of Miami International Holdings, Inc. (''MIH''), the holding company of the Exchange and its affiliated markets), and each department leader has direct knowledge of the time spent by each employee with respect to the various tasks necessary to operate the Exchange. Specifically, twice a year, and as needed with additional new hires and new project initiatives, in consultation with employees as needed, managers and department heads assign a percentage of time to every employee and then allocate that time amongst the Exchange and its affiliated markets to determine each market's individual Human Resources expense. Then, managers and department heads assign a percentage of each employee's time allocated to the Exchange into buckets including network connectivity, ports, market data, and other exchange services. This process ensures that every employee is 100% allocated, ensuring there is no double counting between the Exchange and its affiliated markets.

For personnel costs (Human Resources), the Exchange calculated an allocation of employee time for employees whose functions include providing and maintaining Purge Ports and performance thereof (primarily the Exchange's network infrastructure team, which spends most of their time performing functions necessary to provide port and connectivity services). As described more fully above, the Exchange's parent company allocates costs to the Exchange and its affiliated markets and then a portion of the Human Resources costs allocated to the Exchange is then allocated to port services. From that portion allocated to the Exchange that applied to ports, the Exchange then allocated a weighted average of 2.6% of each employee's time from the above group to Purge Ports.

The Exchange also allocated Human Resources costs to provide Purge Ports to a limited subset of personnel with ancillary functions related to establishing and maintaining such ports (such as information security, sales, membership, and finance personnel). The Exchange allocated cost on an employee-by-employee basis (*i.e.,* only including those personnel who support functions related to providing Purge Ports) and then applied a smaller allocation to such employees' time to Purge Ports (1.3%). This other group of personnel with a smaller allocation of Human Resources costs also have a direct nexus to Purge Ports, whether it is a sales person selling port services, finance personnel billing for port services or providing budget analysis, or information security ensuring that such ports are secure and adequately defended from an outside intrusion.

The estimates of Human Resources cost were therefore determined by consulting with such department leaders, determining which employees are involved in tasks related to providing Purge Ports, and confirming that the proposed allocations were reasonable based on an understanding of the percentage of time such employees devote to those tasks. This includes personnel from the Exchange departments that are predominately involved in providing Purge Ports: Business Systems Development, Trading Systems Development, Systems Operations and Network Monitoring, Network and Data Center Operations, Listings, Trading Operations, and Project Management. Again, the Exchange allocated 2.6% of each of their employee's time assigned to the Exchange for Purge Ports, as stated above. Employees from these departments perform numerous functions to support Purge Ports, such as the installation, re-location, configuration, and maintenance of Purge Ports and the hardware they access. This hardware includes servers, routers, switches, firewalls, and monitoring devices. These employees also perform software upgrades, vulnerability assessments, remediation and patch installs, equipment configuration and hardening, as well as performance and capacity management. These employees also engage in research and development analysis for equipment and software supporting Purge Ports and design, and support the development and on-going maintenance of internally-developed applications as well as data capture and analysis, and Member and internal Exchange reports related to network and system performance. The above list of employee functions is not exhaustive of all the functions performed by Exchange employees to support Purge Ports, but illustrates the breath of functions those employees perform in support of the above cost and time allocations.

Lastly, the Exchange notes that senior level executives' time was only allocated to the Purge Ports related

Human Resources costs to the extent that they are involved in overseeing tasks related to providing Purge Ports. The Human Resources cost was calculated using a blended rate of compensation reflecting salary, equity and bonus compensation, benefits, payroll taxes, and 401(k) matching contributions.

Connectivity (External Fees, Cabling, Switches, etc.)

The Connectivity cost driver includes external fees paid to connect to other exchanges and third parties, cabling and switches required to operate the Exchange. The Connectivity cost driver is more narrowly focused on technology used to complete connections to the Exchange and to connect to external markets. The Exchange notes that its connectivity to external markets vendors is required in order to receive market data to run the Exchange's matching engine and basic operations compliant with existing regulations, primarily Regulation NMS.

The Exchange relies on various connectivity providers for connectivity to the entire U.S. options industry, and infrastructure services for critical components of the network that are necessary to provide and maintain its System Networks and access to its System Networks via 10Gb ULL connectivity. Specifically, the Exchange utilizes connectivity providers to connect to other national securities exchanges and the Options Price Reporting Authority (''OPRA''). The Exchange understands that these service providers provide services to most, if not all, of the other U.S. exchanges and other market participants. Connectivity provided by these service providers is critical to the Exchanges daily operations and performance of its System Networks which includes Purge Ports. Without these services providers, the Exchange would not be able to connect to other national securities exchanges, market data providers or OPRA and, therefore, would not be able to operate and support its System Networks, including Purge Ports. In addition, the connectivity is necessary for the Exchange to notify OPRA and other market participants that an order has been cancelled, and that quotes may have been cancelled as a result of a Member purging quotes via their Purge Port. Also, like other types of ports offered by the Exchange, Purge Ports leverage the Exchange's existing 10Gb ULL connectivity, which also relies on connectivity to other national securities exchanges and OPRA. The Exchange does not employ a separate fee to cover its connectivity provider expense and recoups that expense, in part, by charging for Purge Ports.

Internet Services and External Market Data

The next cost driver consists of internet services and external market data. Internet services includes third-party service providers that provide the internet, fiber and bandwidth connections between the Exchange's networks, primary and secondary data centers, and office locations in Princeton and Miami. For purposes of Purge Ports, the Exchange also includes a portion of its costs related to external market data. External market data includes fees paid to third parties, including OPRA, to receive and consume market data from other markets. The Exchange includes external market data costs towards Purge Ports because such market data is necessary to offer certain services related to such ports, such as checking for market conditions (*e.g.,* halted securities). External market data is also consumed at the Matching Engine level for, among other things, validating quotes on entry against the NBBO. Purge Ports are a component of the Matching Engine, and used by market participants to cancel multiple resting quotes within the Matching Engine. While resting, the Exchange uses external market data to manage those quotes, such as preventing trade-throughs, and those quotes are also reported to OPRA for inclusion in this consolidated data stream. The Exchange also must notify OPRA and other market participants that an order has been cancelled, and that quotes may have been cancelled as a result of a Member purging quotes via their Purge Port. Thus, since market data from other exchanges is consumed by the Matching Engine to validate quotes and check market conditions, the Exchange believes it is reasonable to allocate a small amount of such costs to Purge Ports.

For the reasons set forth above, the Exchange believes it is reasonable to allocate a small amount of such costs to Purge Ports since market data from other exchanges is consumed at the Exchange's Purge Port level to validate purge messages and the necessity to cancel a resting quote via a purge message or via some other means.

Data Center

Data Center costs includes an allocation of the costs the Exchange incurs to provide Purge Ports in the third-party data centers where it maintains its equipment as well as related costs for market data to then enter the Exchange's system (the Exchange does not own the Primary Data Center or the Secondary Data Center, but instead, leases space in data centers operated by third parties).

Hardware and Software Maintenance and Licenses

Hardware and Software Licenses includes hardware and software licenses used to operate and monitor physical assets necessary to offer Purge Ports for each Matching Engine of the Exchange.

Depreciation

The vast majority of the software the Exchange uses to provide Ports has been developed in-house and the cost of such development, which takes place over an extended period of time and includes not just development work, but also quality assurance and testing to ensure the software works as intended, is depreciated over time once the software is activated in the production environment. Hardware used to provide Purge Ports includes equipment used for testing and monitoring of order entry infrastructure and other physical equipment the Exchange purchased and is also depreciated over time.

All hardware and software, which also includes assets used for testing and monitoring of order entry infrastructure, were valued at cost, depreciated or leased over periods ranging from three to five years. Thus, the depreciation cost primarily relates to servers necessary to operate the Exchange, some of which is owned by the Exchange and some of which is leased by the Exchange in order to allow efficient periodic technology refreshes. The Exchange allocated 1.0% of all depreciation costs to providing Purge Ports. The Exchange allocated depreciation costs for depreciated software necessary to operate the Exchange because such software is related to the provision of Purge Ports. As with the other allocated costs in the Exchange's updated Cost Analysis, the Depreciation cost driver was therefore narrowly tailored to depreciation related to Purge Ports.

Allocated Shared Expenses

Finally, a portion of general shared expenses was allocated to overall Purge Port costs as without these general shared costs the Exchange would not be able to operate in the manner that it does and provide Purge Ports. The costs included in general shared expenses include general expenses of the Exchange, including office space and office expenses (*e.g.,* occupancy and overhead expenses), utilities, recruiting and training, marketing and advertising costs, professional fees for legal, tax and accounting services (including external

and internal audit expenses), and telecommunications costs. The Exchange again notes that the cost of paying directors to serve on its Board of Directors is included in the calculation of Allocated Shared Expenses, and thus a portion of such overall cost amounting to less than 3% of the overall cost for directors was allocated to providing Purge Ports.

Approximate Cost for Purge Ports per Month

Based on projected 2024 data, the total monthly cost allocated to Purge Ports of $68,581 was divided by the total number of Matching Engines in which Market Makers used Purge Ports for the month of December 2023, which was 132, resulting in an approximate cost of $522 per Matching Engine per month for Purge Port usage (when rounding to the nearest dollar). The Exchange notes that the flat fee of $600 per month per Matching Engine entitles each Market Maker to two Purge Ports per Matching Engine. The majority of Market Makers are connected to all twenty-four of the Exchange's Matching Engines and utilize Purge Ports on each Matching Engine, except one Market Maker, which only utilizes Purge Ports on three Matching Engines.

Cost Analysis—Additional Discussion

In conducting its Cost Analysis, the Exchange did not allocate any of its expenses in full to any core services (including Purge Ports) and did not double-count any expenses. Instead, as described above, the Exchange allocated applicable cost drivers across its core services and used the same Cost Analysis to form the basis of this proposal. For instance, in calculating the Human Resources expenses to be allocated to Purge Ports based upon the above described methodology, the Exchange has a team of employees dedicated to network infrastructure and with respect to such employees the Exchange allocated network infrastructure personnel with a higher percentage of the cost of such personnel (19.3%) given their focus on functions necessary to provide Ports. The salaries of those same personnel were allocated only 2.6% to Purge Ports and the remaining 97.4% was allocated to connectivity, other port services, transaction services, membership services and market data. The Exchange did not allocate any other Human Resources expense for providing Purge Ports to any other employee group, outside of a smaller allocation of 1.3% for Purge Ports, of the cost associated with certain specified personnel who work closely with and support network infrastructure personnel. This is because a much wider range of personnel are involved in functions necessary to offer, monitor and maintain Purge Ports but the tasks necessary to do so are not a primary or full-time function.

In total, the Exchange allocated 2.2% of its personnel costs to providing Purge Ports. In turn, the Exchange allocated the remaining 97.8% of its Human Resources expense to membership services, transaction services, connectivity services, other port services and market data. Thus, again, the Exchange's allocations of cost across core services were based on real costs of operating the Exchange and were not double-counted across the core services or their associated revenue streams.

As another example, the Exchange allocated depreciation expense to all core services, including Purge Ports, but in different amounts. The Exchange believes it is reasonable to allocate the identified portion of such expense because such expense includes the actual cost of the computer equipment, such as dedicated servers, computers, laptops, monitors, information security appliances and storage, and network switching infrastructure equipment, including switches and taps that were purchased to operate and support the network. Without this equipment, the Exchange would not be able to operate the network and provide Purge Port services to its Market Makers. However, the Exchange did not allocate all of the depreciation and amortization expense toward the cost of providing Purge Port services, but instead allocated approximately 1.0% of the Exchange's overall depreciation and amortization expense to Purge Ports. The Exchange allocated the remaining depreciation and amortization expense (approximately 99%) toward the cost of providing transaction services, membership services, connectivity services, other port services, and market data.

The Exchange notes that its revenue estimates are based on projections across all potential revenue streams and will only be realized to the extent such revenue streams actually produce the revenue estimated. The Exchange does not yet know whether such expectations will be realized. For instance, in order to generate the revenue expected from Purge Ports, the Exchange will have to be successful in retaining existing Market Makers that wish to maintain Purge Ports or in obtaining new Market Makers that will purchase such services. Similarly, the Exchange will have to be successful in retaining a positive net capture on transaction fees in order to realize the anticipated revenue from transaction pricing.

The Exchange notes that the Cost Analysis is based on the Exchange's 2024 fiscal year of operations and projections. It is possible, however, that actual costs may be higher or lower. To the extent the Exchange sees growth in use of connectivity services it will receive additional revenue to offset future cost increases. However, if use of port services is static or decreases, the Exchange might not realize the revenue that it anticipates or needs in order to cover applicable costs. Accordingly, the Exchange is committing to conduct a one-year review after implementation of these fees. The Exchange expects that it may propose to adjust fees at that time, to increase fees in the event that revenues fail to cover costs and a reasonable mark-up of such costs. Similarly, the Exchange may propose to decrease fees in the event that revenue materially exceeds our current projections. In addition, the Exchange will periodically conduct a review to inform its decision making on whether a fee change is appropriate (*e.g.,* to monitor for costs increasing/decreasing or subscribers increasing/decreasing, etc. in ways that suggest the then-current fees are becoming dislocated from the prior cost-based analysis) and would propose to increase fees in the event that revenues fail to cover its costs and a reasonable mark-up, or decrease fees in the event that revenue or the mark-up materially exceeds our current projections. In the event that the Exchange determines to propose a fee change, the results of a timely review, including an updated cost estimate, will be included in the rule filing proposing the fee change. More generally, the Exchange believes that it is appropriate for an exchange to refresh and update information about its relevant costs and revenues in seeking any future changes to fees, and the Exchange commits to do so.

Projected Revenue [32]

The proposed fees will allow the Exchange to cover certain costs incurred by the Exchange associated with providing and maintaining necessary hardware and other network infrastructure as well as network monitoring and support services; without such hardware, infrastructure, monitoring and support the Exchange would be unable to provide port services. Much of the cost relates to

[32] For purposes of calculating projected 2024 revenue for Purge Ports, the Exchange used revenues for the most recently completed full month.

monitoring and analysis of data and performance of the network via the subscriber's connection(s). The above cost, namely those associated with hardware, software, and human capital, enable the Exchange to measure network performance with nanosecond granularity. These same costs are also associated with time and money spent seeking to continuously improve the network performance, improving the subscriber's experience, based on monitoring and analysis activity. The Exchange routinely works to improve the performance of the network's hardware and software. The costs associated with maintaining and enhancing a state-of-the-art exchange network is a significant expense for the Exchange, and thus the Exchange believes that it is reasonable and appropriate to help offset those costs by amending fees for Purge Port services. Subscribers, particularly those of Purge Ports, expect the Exchange to provide this level of support so they continue to receive the performance they expect. This differentiates the Exchange from its competitors. As detailed above, the Exchange has five primary sources of revenue that it can potentially use to fund its operations: transaction fees, fees for connectivity services (connections and ports), membership and regulatory fees, and market data fees. Accordingly, the Exchange must cover its expenses from these five primary sources of revenue.

The Exchange's Cost Analysis estimates the annual cost to provide Purge Port services will equal $822,969. Based on current Purge Port services usage, the Exchange would generate annual revenue of approximately $950,400. The Exchange believes this represents a modest profit of 13.4% when compared to the cost of providing Purge Port services, which could decrease over time.[33]

Based on the above discussion, the Exchange believes that even if the Exchange earns the above revenue or incrementally more or less, the proposed fees are fair and reasonable because they will not result in pricing that deviates from that of other exchanges or a supra-competitive profit, when comparing the total expense of the Exchange associated with providing Purge Port services versus the total projected revenue of the Exchange associated with network Purge Port services.

Comparable Fee Filing Without Cost Justification

The Exchange further supports the proposed fee change based on a recent 2023 proposal filed with the Commission by another national securities exchange, Phlx, to adopt fees for purge ports, which the Commission deemed acceptable by not suspending that filing during the applicable 60-day review period.[34] In fact, the same justification Phlx utilized was also used in similar recent proposals to adopt fees for purge ports by two of Phlx's affiliated exchanges.[35] Therefore, the Exchange utilizes the below justification based on this recent Commission precedent from approximately a few months ago.

The Exchange believes that the proposed rule change would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market because offering Market Makers optional service and flexible fee structures which promotes choice, flexibility, efficiency, and competition. The Exchange believes Purge Ports enhance Market Makers' ability to manage quotes, which would, in turn, improve their risk controls to the benefit of all market participants. The Exchange believes that Purge Ports foster cooperation and coordination with persons engaged in facilitating transactions in securities because designating Purge Ports for purge messages may encourage better use of such ports. This may, concurrent with the ports that carry quotes and other information necessary for market making activities, enable more efficient, as well as fair and reasonable, use of Market Makers' resources. Similar connectivity and functionality is offered by options exchanges, including the Exchange's own affiliated options exchanges, and other equities exchanges.[36] The Exchange believes that proper risk management, including the ability to efficiently cancel multiple quotes quickly when necessary, is similarly valuable to firms that trade in the equities market, including Market Makers that have heightened quoting obligations that are not applicable to other market participants.

Purge Ports do not relieve Market Makers of their quoting obligations or firm quote obligations under Regulation NMS Rule 602.[37] Specifically, any interest that is executable against a Member's or Market Maker's quotes that is received by the Exchange prior to the time of the removal of quotes request will automatically execute. Market Makers that purge their quotes will not be relieved of the obligation to provide continuous two-sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against a Market Maker for failing to meet their continuous quoting obligation each trading day.[38]

The Exchange is not the only exchange to offer this functionality and to charge associated fees.[39] The Exchange believes the proposed fee for Purge Ports is reasonable because it is lower than the fees currently charged by other exchanges for similar port functionality. For example, BZX and EDGX charge a fee of $750 per purge port per month, Cboe charges $850 per purge port per month, Nasdaq GEMX assesses its members $1,250 per SQF Purge Port per month, subject to a monthly cap of $17,500 for SQF Purge Ports and SQF Ports.[40]

The Exchange believes it is reasonable to charge $600 per month for Purge Ports as proposed because such ports were specially developed to allow Market Makers to send a single message to cancel multiple quotes, thereby assisting firms in effectively managing risk. The Exchange also believes that a Member that chooses to utilize Purge Ports may, in the future, reduce their need for additional ports by consolidating cancel messages to their dedicated Purge Port and thus freeing up some capacity of the existing logical ports and, therefore, allowing for

[33] Assuming the U.S. inflation rate continues at its current rate, the Exchange believes that the projected profit margins in this proposal will decrease; however, the Exchange cannot predict with any certainty whether the U.S. inflation rate will continue at its current rate or its impact on the Exchange's future profits or losses. *See, e.g., https://www.usinflationcalculator.com/inflation/current-inflation-rates/* (last visited January 18, 2024).

[34] *See supra* note 3.

[35] *See* Securities Exchange Act Release Nos. 98770 (October 18, 2023), 88 FR 73065 (October 24, 2023) (SR–BX–2023–026); *and* 98768 (October 18, 2023), 88 FR 73056 (October 24, 2023) (SR–NASDAQ–2023–041). While the Exchange included a cost-based justification in this Third Proposal, the Exchange continues to believe that such justification puts the Exchange on an unlevel playing field with its competitors because Purge Ports are optional functionality and no cost-based justification was provided by Phlx or any of its affiliates in their same filings to adopt fees for purge ports. Nor does the Staff Guidance issued by the Commission Staff include such a requirement. *See supra* note 29.

[36] *See supra* notes 3 and 10. *See also* Securities Exchange Act Release No. 77613 (April 13, 2016), 81 FR 23023 (April 19, 2016). *See* also Securities Exchange Act Release Nos. 79956 (February 3, 2017), 82 FR 10102 (February 9, 2017) (SR–BatsBZX–2017–05); 79957 (February 3, 2017), 82 FR 10070 (February 9, 2017) (SR–BatsEDGX–2017–07); 83201 (May 9, 2018), 83 FR 22546 (May 15, 2018) (SR–C2–2018–006).

[37] *See* Exchange Rule 604. *See also generally* Chapter VI of the Exchange's Rules.

[38] *Id.*

[39] *See supra* notes 3 and 10.

[40] *See supra* note 10.

increased message traffic without paying for additional logical ports. Purge Ports provide the ability to cancel multiple quotes with a single message over a dedicated port, and, therefore, may create efficiencies for firms and provide a more efficient solution for them based on their risk management needs. In addition, Purge Port requests may cancel quotes submitted over numerous ports and contain added functionality to purge only a subset of these quotes. Effective risk management is important both for individual market participants that choose to utilize risk features provided by the Exchange, as well as for the market in general. As a result, the Exchange believes that it is appropriate to charge fees for such functionality as doing so aids in the maintenance of a fair and orderly market.

The Exchange also believes that its ability to set fees for Purge Ports is subject to significant substitution-based forces because Market Makers are able to rely on currently available services both free and those they receive when using existing trading protocols. If the value of the efficiency introduced through the Purge Port functionality is not worth the proposed fees, Market Makers will simply continue to rely on the existing functionality and not pay for Purge Ports. In that regard, Market Makers may currently cancel individual quotes through the existing functionality, such as through the use of a mass cancel message by which a Market Maker may request that the Exchange remove all or a subset of its quotations and block all or a subset of its new inbound quotations. Already Market Makers can also cancel quotes individually and by utilizing Exchange protocols that allow them to develop proprietary systems that can send cancel messages at a high rate.[41] In addition, the Exchange already provides similar ability to mass cancel quotes through the Exchange's risk controls, which are offered at no charge that enables Market Makers to establish pre-determined levels of risk exposure, and can be used to cancel all open quotes.[42]

Further, like Purge Ports, Members may also cancel all or a subset of its orders in the System, by firm name or by MPID, over their existing ports, or by requesting the Exchange staff to effect such cancellations.[43]

Similarly, Market Makers may use cancel-on-disconnect control when they experience a disruption in their connection to the Exchange and immediately cancel all pending quotes in the Exchange's System.[44] Finally, this existing purging functionality will allow Market Makers to achieve essentially the same outcome in canceling quotes as they would by utilizing the Purge Ports. Accordingly, the Exchange believes that the proposed Purge Port fee is reasonable because it is related to the efficiency of Purge Ports and to other means and services already available which are either free or already a part of a fee assessed to the Market Maker for existing connectivity. Accordingly, because Purge Ports provide additional optional functionality, excessive fees would simply serve to reduce or eliminate demand for this optional product.

The Exchange also believes that offering Purge Ports at the Matching Engine level promotes risk management across the industry, and thereby facilitates investor protection. Some market participants, in particular the larger firms, could and do build similar risk functionality (as described above) in their trading systems that permit the flexible cancellation of quotes entered on the Exchange at a high rate. Offering Matching Engine level protections ensures that such functionality is widely available to all firms, including smaller firms that may otherwise not be willing to incur the costs and development work necessary to support their own customized mass cancel functionality.

As noted above, the Exchange is not the only exchange to offer dedicated Purge Ports, and the proposed rate is lower than that charged by other exchanges for similar functionality. The Exchange also believes that moving to a per Matching Engine fee is reasonable due to the Exchange's architecture that provides it the ability to provide two (2) Purge Ports per Matching Engine for a fee that would still be lower than competing exchanges that charge on a per port basis. Generally speaking, restricting the Exchange's ability to charge fees for these services discourages innovation and competition. Specifically in this case, the Exchange's inability to offer similar services to those offered by other exchanges, and charge reasonable and equitable fees for such services, would put the Exchange at a significant competitive disadvantage and, therefore, serve to restrict competition in the market—especially when other exchanges assess comparable fees higher than those proposed by the Exchange.

The Exchange believes that the proposed Purge Port fees are equitable because the proposed Purge Ports are completely voluntary as they relate solely to optional risk management functionality.

The Exchange also believes that the proposed amendments to its Fee Schedule are not unfairly discriminatory because they will apply uniformly to all Market Makers that choose to use the optional Purge Ports. Purge Ports are completely voluntary and, as they relate solely to optional risk management functionality, no Market Maker is required or under any regulatory obligation to utilize them. All Market Makers that voluntarily select this service option will be charged the same amount for the same services. All Market Makers have the option to select any connectivity option, and there is no differentiation among Market Makers with regard to the fees charged for the services offered by the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Purge Ports are completely voluntary and are available to all Market Makers on an equal basis at the same cost. While the Exchange believes that Purge Ports provide a valuable service, Market Makers can choose to purchase, or not purchase, these ports based on their own determination of the value and their business needs. No Market Maker is required or under any regulatory obligation to utilize Purge Ports. Accordingly, the Exchange believes that Purge Ports offer appropriate risk management functionality to firms that trade on the Exchange without imposing an unnecessary or inappropriate burden on competition.

Furthermore, the Exchange operates in a highly competitive environment, and its ability to price the Purge Ports is constrained by competition among exchanges that offer similar functionality. As discussed, there are currently a number of similar offers available to market participants for higher fees at other exchanges. Proposing fees that are excessively higher than established fees for similar functionality would simply serve to reduce demand for the Purge Ports, which as discussed, market participants are under no obligation to utilize. It could also cause firms to shift trading to other exchanges that offer similar

[41] Current Exchange port functionality supports cancelation rates that exceed one thousand messages per second and the Exchange's research indicates that certain Participants rely on such functionality and at times utilize such cancelation rates.

[42] *See* Exchange Rule 532.

[43] *See* Exchange Rule 519C(a).

[44] *See* Exchange Rule 519C(c).

functionality at a lower cost, adversely impacting the overall trading on the Exchange and reducing market share. In this competitive environment, potential purchasers are free to choose which, if any, similar product to purchase to satisfy their need for risk management. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

The Exchange also does not believe the proposal would cause any unnecessary or inappropriate burden on intermarket competition as other exchanges are free to introduce their own purge port functionality and lower their prices to better compete with the Exchange's offering. The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposal would apply uniformly to any market participant, in that it does not differentiate between Market Makers. The proposal would allow any interested Market Makers to purchase Purge Port functionality based on their business needs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange received one comment letter on the Initial Proposal and one comment letter on the Second Proposal, both from the same commenter.[45] This comment letters were submitted not only on these proposals, but also the proposals by the Exchange and its affiliates to amend fees for 10Gb ULL connectivity and certain ports. The Exchange received one other comment letter on the Second Proposal.[46] Overall, the Exchange believes that the issues raised by the first commenter are not germane to this proposal because they apply primarily to the other fee filings. Also, the commenters raised concerns with the current environment surrounding exchange non-transaction fee proposals that should be addressed by the Commission through rule making, or Congress, more holistically and not through an individual exchange fee filings. However, the commenters do raise one issue that concerns this proposal whereby it asserts that the Exchange's comparison to fees charged by other exchanges for similar ports is irrelevant and unpersuasive. The core of the issue raised is regarding the cost to connect to one exchange compared to the cost to connect to others. A thorough response to this comment would require the Exchange to obtain competitively sensitive information about other exchange architecture and how their members connect. The Exchange is not privy to this information. Further, the commenter compares the Exchange's proposed rate to other exchanges that offer purge port functionality across all matching engines for a single fee, but fails to provide the same comparison to other exchanges that charge for purge functionality like proposed here. The Exchange does not have insight into the technical architecture of other exchanges so it is difficult to ascertain the number of purge ports a firm would need to connect to another exchanges entire market. Therefore, the Exchange is limited to comparing its proposed fee to other exchanges' purge port fees as listed in their fee schedules.

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,[47] and Rule 19b–4(f)(2)[48] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–EMERALD–2024–05 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–EMERALD–2024–05. 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–EMERALD–2024–05 and should be submitted on or before March 12, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[49]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–03334 Filed 2–16–24; 8:45 am]

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[45] *See* letters from Thomas M. Merritt, Deputy General Counsel, Virtu Financial, Inc. (''Virtu''), to Vanessa Countryman, Secretary, Commission, dated November 8, 2023 and January 2, 2024.

[46] *See* letter from John C. Pickford, Counsel, Susquehanna International Group, LLP (''SIG''), to Vanessa Countryman, Secretary, Commission, dated January 4, 2024.

[47] 15 U.S.C. 78s(b)(3)(A)(ii).

[48] 17 CFR 240.19b–4(f)(2).

[49] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99532; File No. SR–NYSEARCA–2024–15]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the NYSE Arca Options Fee Schedule

February 13, 2024.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on February 12, 2024, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify the NYSE Arca Options Fee Schedule (''Fee Schedule'') regarding the Limit of Fees on Options Strategy Executions. The Exchange proposes to implement the fee change effective February 12, 2024.[4] The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange originally filed to amend the Fee Schedule on February 1, 2024 (SR–NYSEArca–2024–14) and withdrew such filing on February 12, 2024.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend the Fee Schedule to modify the Limit of Fees on Options Strategy Executions (the ''Strategy Cap'' or ''Cap''), effective February 12, 2024.

Background

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 17 options venues to which market participants may direct their order flow. Based on publicly available information, no single options exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades. Therefore, no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in December 2023, the Exchange had less than 13% market share of executed volume of multiply-listed equity and ETF options trades. Thus, in such a low-concentrated and highly competitive market, no single options exchange possesses significant pricing power in the execution of option order flow.

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain the Exchange's transaction fees, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. In response to the competitive environment, the Exchange offers specific rates and credits in its Fees Schedule, as do other competing options exchanges, which the Exchange believes provide incentive to OTP Holder and OTP Firms (collectively, ''OTP Holders'') to increase order flow of certain qualifying orders—the Strategy Cap (as described below) is one such incentive.

Proposed Fee Change

Currently, the Fee Schedule provides that transaction fees for OTP Holders are limited or capped at $1,000 for certain options strategy executions ''on the same trading day,'' meaning the Strategy Cap is a daily fee cap.[5] Strategy executions that qualify for the Strategy Cap are (a) reversals and conversions, (b) box spreads, (c) short stock interest spreads, (d) merger spreads, (e) jelly rolls, and (f) dividends, which are described in detail in the Fee Schedule (the ''Strategy Executions'').[6] The Exchange also offers a lower daily Strategy Cap of $200 for OTP Holders that trade at least 25,000 monthly billable contract sides in Strategy Executions (the ''minimum billable sides requirement''). Thus, the Exchange caps the daily Strategy Execution fees at $200 for each day of the month (as opposed to $1,000 for nonqualifying OTP Holders) for OTP Holders that meet the minimum billable sides requirement.

The Exchange proposes to reduce the Strategy Cap from $1,000 to $200 and to remove the minimum billable sides requirement to qualify for this lower $200 daily Cap. Put another way, the Exchange proposes to cap daily fees for Strategy Executions at $200 for each day of the month regardless of an OTP Holder's monthly billable volume in Strategy Executions.[7]

The Exchange notes that the proposed fee change is designed to compete with other options exchanges that likewise cap fees on certain options strategies.[8] Therefore, the Exchange believes the proposed reduction of the Strategy Cap may further incentivize OTP Holders to direct Strategy Executions to the Exchange.

[5] *See* Fee Schedule, Limit of Fees on Options Strategy Executions, available here: *https://www.nyse.com/publicdocs/nyse/markets/arcaoptions/NYSE_Arca_Options_Fee_Schedule.pdf.*

[6] *See id.,* Endnote 10 (describing each Strategy Execution).

[7] *See* proposed Fee Schedule, Limit of Fees on Options Strategy Executions.

[8] The Exchange notes that at least three other options exchanges offer a daily fee cap on certain option strategies, which caps range from as little $0 (on Cboe Exchange, Inc. (''Cboe'') to as much as $1,100 (on Nasdaq PHLX LLC (''PHLX '') and differ based on the specific strategies executed and the type of market participants on the trade. *See, e.g.,* Cboe Fee Schedule, Footnote 13, available here: *https://cdn.cboe.com/resources/membership/Cboe_FeeSchedule.pdf;* PHLX Options 7, Pricing Schedule, Section 4 (Strategy Caps), available here: *https://listingcenter.nasdaq.com/rulebook/phlx/rules/Phlx%20Options%207. See also* BOX Options Market LLC (''BOX'') Fee Schedule, Section V.D, Strategy Qualified Open Outcry ''QOO'' Order Fee Cap and Rebate, available here: *https://boxexchange.com/regulatory/fees/.* Despite the nuances in how each option exchange applies the various strategy caps, the Exchange directly competes with these exchanges for order flow in options strategy executions.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[10] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed change to the Strategy Cap is reasonable, equitable, and not unfairly discriminatory. As noted above, the Exchange operates in highly competitive market. The Exchange is only one of several options venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. As such, market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The Exchange believes that the proposed fee change is reasonable, equitable, and not unfairly discriminatory in that the Exchange and competing options exchanges currently offer reduced fees or credits in connection with strategy orders.[11]

The Exchange notes that the proposed change would be applied uniformly to all similarly-situated OTP Holders. Moreover, the Exchange believes that the proposed change would further incentivize OTP Holder [sic] to direct Strategy Executions to the Exchange and may encourage them to aggregate their Strategy Executions at the Exchange as the primary execution venue. For example, this proposed change may encourage OTP Holders to increase their Strategy Execution volumes by executing (often smaller) strategies that are not necessarily economically viable on a per symbol basis, but which may be profitable when fees on Strategy Executions—regardless of symbol—are capped for the trading day. To the extent that the proposed change attracts more Strategy Executions, this increased order flow may make the Exchange a more competitive venue for order execution. In addition, the Exchange notes that all market participants stand to benefit from increased volume, which promotes market depth, facilitates tighter spreads, and enhances price discovery, and may lead to a corresponding increase in order flow from other market participants.

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees. Stated differently, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow. The Exchange believes the proposed change is a reasonable attempt to effectively compete for Strategy Executions. The Exchange believes that the proposed change may encourage OTP Holders to conduct Strategy Executions on the Exchange and, in turn, may increase the depth of the market to the benefit of all market participants. The Exchange notes that OTP Holders may avail themselves of the Exchange's proposed Strategy Cap or they can opt for similar offerings at another exchange.[12]

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The proposed change is designed to attract additional order flow to the Exchange, particularly Strategy Executions. In particular, the Exchange believes that the proposed change could further incentivize market participants to direct their Strategy Executions to the Exchange. As noted herein, the proposed Strategy Cap would be applicable to all similarly-situated market participants, and, as such, the proposed change would not impose a disparate burden on competition among OTP Holders. The Exchange believes that the proposed change may continue to encourage OTP Holders to conduct Strategy Executions on the Exchange, which increased liquidity and quote competition on the Exchange benefits all market participants.

The Exchange also does not believe that the proposed Strategy Cap will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the Act because, as noted above, other competing options exchanges currently has [sic] a similar fee cap in place in connection with strategy orders.[13] Because competitors are free to modify their own fees or fee caps in response to competing exchanges, the Exchange believes that the degree to which changes in this market may impose any burden on competition is limited. Further, the Exchange believes that the proposed change could promote competition between the Exchange and other execution venues, including those that currently offer similar strategy order fees or fee caps. Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[14] of the Act and subparagraph (f)(2) of Rule 19b–4[15] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[16] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing,

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4) and (5).

[11] *See, e.g., supra* note 8 (describing similar fee caps available on Cboe, PHLX, and BOX).

[12] *See, e.g., supra* note 8 (describing similar fee caps available on Cboe, PHLX, and BOX).

[13] *Id.*

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(2).

[16] 15 U.S.C. 78s(b)(2)(B).

including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSEARCA–2024–15 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NYSEARCA–2024–15. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*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–NYSEARCA–2024–15 and should be submitted on or before March 12, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–03337 Filed 2–16–24; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99524; File No. SR–CboeBZX–2024–010]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Corporate Governance Requirements, as Provided Under Exchange Rule 14.10 and Make Certain Other Changes to Its Listing Rules as Provided Under Exchange Rules 14.3, 14.6, 14.7, and 14.12

February 13, 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 January 29, 2024, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') proposes to amend its Corporate Governance Requirements, as provided under Exchange Rule 14.10 and make certain other changes to its listing rules as provided under Exchange Rules 14.3, 14.6, 14.7, and 14.12. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*https://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the corporate governance requirements as provided under Exchange Rule 14.10 and make certain other related changes to its listing rules as provided under Exchange Rules 14.3, 14.6, 14.7, and 14.12. The proposed changes are substantively similar to the equivalent rule on another exchange.[3] Specifically, the proposed changes will (1) modify the compensation-related listing rules to align with that of other exchanges; (2) modify the exemption to the Direct Registration Program (''DRP'') requirement as it pertains to foreign issuers; (3) require listed Companies to publicly disclose compensation or other payments by third parties to any nominee for director or sitting director in connection with their candidacy for or service on the Companies' Board of Directors; (4) modify the listing requirements to change the definition of market value for purposes of the shareholder approval rules and eliminate the requirement for shareholder approval of issuances at a price less than book value but greater than market value; (5) modify and clarify the exemptions from certain corporate governance requirements; (6) modify the definition of a ''Family Member'' as defined in Rule 14.10; (7) modify the quorum requirement applicable to a non-U.S. company where such company's home country law is in direct conflict with the Exchange's quorum requirement; and (8) modify rule numbers and make other ministerial clarifying changes. As noted above, the proposed changes would result in Exchange Rules that are substantively similar to the existing rules of Nasdaq and are supported by prior Commission approval orders and immediately effective exchange proposals, as discussed in further detail below.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* the Nasdaq Stock Market LLC (''Nasdaq'') listing rules series 5200 (General Procedures and Prerequisites for Initial and Continued Listing on the Nasdaq Stock Market), 5600 (Corporate Governance Requirements), and 5800 (Failure to Meeting Listing Standards). Additionally, the chart provided in Item 8 below summarizes each Nasdaq Rule and each corresponding proposed Exchange Rule.

(1) Compensation-Related Listing Rules

First, the Exchange proposes to amend Rule 14.10 to require a Company listed on the Exchange to have a compensation committee and to update its requirements for a compensation committee. In addition to being consistent with the rules of another exchange,[4] The Exchange believes the proposed rule will be in accordance with Rule 10C–1 of the Act.

(a) Requirement To Have a Compensation Committee

The Exchange's current listing rules require that compensation of the chief executive officer and all other Executive Officers [5] of a Company must be determined, or recommended to the board for determination, either by: (i) a compensation committee comprised solely of Independent Directors; [6] or as an alternative by (ii) Independent Directors constituting a majority of the board's Independent Directors in a vote in which only Independent Directors participate (the ''Alternative'').[7] Now, the Exchange proposes to eliminate the Alternative and instead require Exchange-listed Companies to have a standing compensation committee with the responsibility for determining, or recommending to the full board for determination, the compensation of the chief executive officer and all other Executive Officers of the Company. The Exchanges believes there are several benefits from a board having a standing committee dedicated solely to oversight of executive compensation. Specifically, directors on a standing compensation committee may develop expertise in a Company's executive compensation program in the same way that directors on a standing audit committee develop expertise in a Company's accounting and financial reporting processes. In addition, a formal committee structure may help promote accountability to stockholders for executive compensation decisions.[8] Furthermore, no Company listed on the Exchange relies on the Alternative. Given this, the Exchange does not believe that eliminating the Alternative on the Exchange would impose any undue burden to Companies listed on the Exchange.

The proposal would rename existing Rule 14.10(c)(4) ''Compensation Committee Requirements'' and would describe such requirements, many of which are included under existing Rule 14.10(c)(4), as discussed further below. The proposal to require Exchange-listed Companies to have a standing compensation committee with the responsibility for determining, or recommending to the full board for determination, the compensation of the chief executive officer and all other Executive Officers of the Company, is substantively similar to existing rules of another Exchange [9] that were approved by the Commission.[10]

(b) Compensation Committee Charter

The Exchange proposes to require each Company to certify that it has adopted a formal written compensation committee charter and that the compensation committee will review and reassess the adequacy of the formal written charter on an annual basis, as provided under proposed Rule 14.10(c)(4)(A).[11] This proposal is similar to the Exchange's current requirement for Companies to certify as to the adoption of a formal written audit committee charter, except that the proposed requirement for annual review and reassessment of the adequacy of the compensation committee charter is written prospectively, rather than retrospectively.[12] In other words, the proposed compensation committee charter requirement states that the compensation committee will review and reassess the adequacy of the charter on an annual basis, while the current audit committee charter requirement states that the audit committee has reviewed and reassessed the adequacy of the charter on an annual basis.[13]

The Exchange proposes that the compensation committee charter must specify:

- the scope of the compensation committee's responsibilities, and how it carries out those responsibilities, including structure, processes and membership requirements;
- the compensation committee's responsibility for determining, or recommending to the board for determination, the compensation of the chief executive officer and all other Executive Officers of the Company;
- that the chief executive officer of the Company may not be present during voting or deliberations by the compensation committee on his or her compensation; and
- the specific compensation committee responsibilities and authority set forth in proposed Exchange Rule 14.10(c)(4)(D).

The requirement for the charter to specify the scope of the compensation committee's responsibilities, and how it carries out those responsibilities, including structure, processes and membership requirements, is copied from the Exchange's similar listing rule relating to audit committee charters.[14] Furthermore, this requirement is substantively similar to requirements on another exchange.[15]

The requirement for the charter to specify the compensation committee's responsibility for determining, or recommending to the board for determination, the compensation of the chief executive officer and all other Executive Officers of the Company, is based upon the Exchange's current compensation-related listing rules.[16] These listing rules require that the compensation of a Company's chief executive officer and all other Executive Officers must be determined by (i) a compensation committee comprised solely of Independent Directors or (ii) the Independent Directors constituting a majority of the board's Independent Directors in a vote in which only Independent Directors participate. As discussed above, the Exchange proposes to eliminate the Alternative, and therefore, the compensation of a Company's chief executive officer and all other Executive Officers must be

[4] *See* Nasdaq listing rule 5605.

[5] ''Executive Officer'' means those officers covered in Rule 16a–1(f) under the Act. *See* Exchange Rule 14.10(c)(1)(A).

[6] *See* Exchanger Rule 14.10(c)(1)(B).

[7] *See* Exchange Rule 14.10(c)(4)(B).

[8] *See* Securities Exchange Act Nos. 68013 (October 9, 2012) 77 FR 62563 (October 15, 2012) (SR–NASDAQ–2012–109) (Notice of Filing of Proposed Rule Change To Modify the Listing Rules for Compensation Committees To Comply With Rule 10C–1 Under the Exchange Act and Make Other Related Changes) 68640 (January 11, 2013) 78 FR 4554 (January 22, 2013) (Order Granting Accelerated Approval of Proposed Rule Change as Modified by Amendment Nos. 1 and 2 To Amend the Listing Rules for Compensation Committees To Comply With Rule 10C–1 Under the Act and Make Other Related Changes).

[9] *See* Nasdaq Listing Rule 5605(d).

[10] Supra note 10.

[11] Smaller Reporting Companies may adopt either a formal written compensation committee charter or a board resolution that specifies the committee's responsibilities and authority, except Smaller Reporting Companies are not required to specify the specific compensation responsibilities and authority set forth in proposed Exchange Rule 14.10(d)(4)(D). For further discussion, see the section entitled ''Smaller Reporting Companies'' below.

[12] See Exchange Rule 14.10(c)(3)(A). The proposed Rule is substantively identical to Nasdaq Rule 5605(d)(1).

[13] The Exchange proposes to make a conforming change and technical and grammar corrections to its audit committee charter requirement to clarify that Companies' annual review and reassessment of the audit committee charter should be prospective. This is consistent with the Exchange's current interpretation of its audit committee charter requirement. By proposing this amendment, the Exchange seeks to minimize differences between the audit committee and compensation committee charter requirements and to eliminate potential questions as to whether the Exchange intended a discrepancy between these two requirements.

[14] *See* Exchange Rule 14.10(c)(3)(A)(i).

[15] *See* Nasdaq Listing Rule 5605(d)(1)(A).

[16] *See* Exchange Rule 14.10(c)(4)(B)(i) and (ii).

determined, or recommended to the board for determination, by a compensation committee comprised of Independent Directors. Going forward, the Exchange proposes to implement this requirement by requiring Companies to include it in their formal written compensation committee charters.

The requirement for the charter to specify that the chief executive officer of the Company may not be present during voting or deliberations by the compensation committee on his or her compensation is based upon the Exchange's current compensation-related listing rules.[17] Going forward, the Exchange proposes to implement this requirement by requiring Companies to include it in their formal written compensation committee charters as applicable.

Finally, the requirement for the charter to specify the specific compensation committee responsibilities and authority set forth in proposed Exchange Rule 14.10(c)(4)(D) is modeled after the Exchange's similar listing rule relating to audit committee charters.[18] Moreover, it is substantively similar to rules of another exchange.[19]

(c) Compensation Committee Size

Next, the Exchange proposes to impose a minimum size requirement of the compensation committee of at least two members under proposed Rule 14.10(c)(4)(B). The proposal would move existing Rule 14.10(c)(4)(A) to paragraph (B) and incorporate the proposed compensation committee size requirement. Given the importance of compensation decisions to stockholders, the Exchange believes that it is appropriate to have more than one director responsible for these decisions. No Company currently listed on the Exchange has a compensation committee of fewer than two members. Given this, combined with the fact that another exchange [20] also requires a minimum compensation committee size of two members, the Exchange does not believe the proposal would cause undue hardship for Exchange-listed companies.

(d) Exceptional and Limited Circumstances Exception

The Exchange proposes to adopt Rule 14.10(c)(4)(C), which will provide that notwithstanding proposed Rule 14.10(c)(4)(B) (Compensation Committee Composition) if the compensation committee is comprised of at least three members, one director who does not meet the requirements of paragraph 14.10(c)(4)(B) and is not currently an Executive Officer or employee or a Family Member of an Executive Officer, may be appointed to the compensation committee if the board, under exceptional and limited circumstances, determines that such individual's membership on the committee is required by the best interests of the Company and its Shareholders. A Company that relies on this exception must disclose either on or through the Company's website or in the proxy statement for the next annual meeting subsequent to such determination (or, if the Company does not file a proxy, in its Form 10–K or 20–F), the nature of the relationship and the reasons for the determination. In addition, the Company must provide any disclosure required by Instruction 1 to Item 407(a) of Regulation S–K regarding its reliance on this exception. A member appointed under this exception may not serve longer than two years.

The Exchange's current listing rules include similar exceptions for audit and nominations committees.[21] The Exchange believes such an exception provides an important means to allow Companies flexibility as to board and committee membership and composition in unusual circumstances, which may be particularly important for smaller Companies. Moreover, the proposed rule is substantively similar to existing rules of another exchange.[22]

(e) Compensation Committee Responsibilities and Authority

The Exchange proposes to keep the Compensation Committee Responsibilities and Authority provided under existing Rule 14.10(c)(4)(C) largely the same under proposed Rule 14.10(c)(4)(D), but to make small modifications to restructure and organize the rule. Specifically, the Exchange proposes to add a paragraph following proposed Rule 14.10(c)(4)(D)(iv) providing that for the purposes of this Rule, the compensation committee is not required to conduct an independence assessment for a compensation adviser that acts in a role limited to the following activities for which no disclosure is required under Item 407(e)(3)(iii) of Regulation S–K: (a) consulting on any broad-based plan that does not discriminate in scope, terms, or operation, in favor of Executive Officers or directors of the Company, and that is available generally to all salaried employees; and/or (b) providing information that either is not customized for a particular issuer or that is customized based on parameters that are not developed by the adviser, and about which the adviser does not provide advice. The proposed language is identical to that included in another exchanges rules.[23]

(f) Compensatory Fees

Existing Rule 14.10(c)(4)(A)(i) provides that in addition to meeting the criteria listed under Rule 14.10(c)(1)(B), in evaluating the independence of a director to determine if such director is permitted to determine the compensation of Executive Officers as described in Rule 14.10(c)(4)(B), the board of directors of a Company shall consider the following factors: (a) the source of compensation of the director, including any consulting, advisory or other compensatory fee paid by the Company to such director; and (b) whether the director is affiliated with the Company, a subsidiary of the Company, or an affiliate of a subsidiary of the company. Now, the Exchange proposes to move existing Rule 14.10(c)(4)(A)(i) to Rule 14.10(c)(4)(B) and to note within the paragraph the requirement that each Company must have and certify that it has and will continue to have a compensation committee of at least two members. The Exchange also proposes to make other non-substantive changes to Rule 14.10(c)(4)(B) to add clarity and so that it is substantively identical to the equivalent Nasdaq rule.[24]

Additionally, the Exchange proposes to amend Interpretation and Policy .07 to Rule 14.10 so that it is substantively identical to Nasdaq Listing IM–5605–6. Currently, Interpretation and Policy .07 provides that independent director oversight of executive officer compensation helps assure that appropriate incentives are in place, consistent with the board's responsibility to maximize shareholder value. The rule is intended to provide

[17] *See* Exchange Rule 14.10(c)(4)(B)(i).

[18] *See* Exchange Rule 14.10(c)(3(A)(iv), which requires that an audit committee charter set forth the specific audit committee responsibilities and authority set forth in Exchange Rule 14.10(c)(3)(C). Exchange Rule 14.10(c)(3)(C) states that an audit committee must have the specific responsibilities and authority necessary to comply with Rule 10A–3(b)(2), (3), (4) and (5) under the Exchange Act, with certain exemptions. Rule 10A–3(b)(2), (3), (4) and (5) under the Exchange Act concerns responsibilities relating to: (i) registered public accounting firms; (ii) complaints relating to accounting, internal accounting controls or auditing matters; (iii) authority to engage advisors; and (iv) funding as determined by the audit committee.

[19] *See* Nasdaq Listing Rule 5605(d)(3).

[20] *See* Nasdaq Listing Rule 5605(d)(2).

[21] *See* Exchange Rule 14.10(c)(3)(B)(ii).

[22] *See* Nasdaq Listing Rule 5605(d)(2)(B).

[23] *See* Nasdaq Listing Rule 5605(d)(3).

[24] *See* Nasdaq Rule 5605(d)(2)(A).

flexibility for a Company to choose an appropriate board structure and to reduce resource burdens, while ensuring Independent Director control of compensation decisions. The Exchange proposes to modify Interpretation and Policy .07 to provide that independent director oversight of executive officer compensation helps assure that appropriate incentives are in place, consistent with the board's responsibility to act in the best interests of the corporation. Compensation committees are required to have a minimum of two members and be comprised only of Independent Directors as defined under Rule 14.10(c)(1)(B).

In addition, proposed Rule 14.10(c)(4)(B) includes an additional independence test for compensation committee members. When considering the sources of a director's compensation for this purpose, the board should consider whether the director receives compensation from any person or entity that would impair the director's ability to make independent judgments about the Company's executive compensation. Similarly, when considering any affiliate relationship a director has with the Company, a subsidiary of the Company, or an affiliate of a subsidiary of the Company, in determining independence for purposes of compensation committee service, the board should consider whether the affiliate relationship places the director under the direct or indirect control of the Company or its senior management, or creates a direct relationship between the director and members of senior management, in each case of a nature that would impair the director's ability to make independent judgments about the Company's executive compensation. In that regard, while a board may conclude differently with respect to individual facts and circumstances, the Exchange does not believe that ownership of Company stock by itself, or possession of a controlling interest through ownership of Company stock by itself, precludes a board finding that it is appropriate for a director to serve on the compensation committee. In fact, it may be appropriate for certain affiliates, such as representatives of significant stockholders, to serve on compensation committees since their interests are likely aligned with those of other stockholders in seeking an appropriate executive compensation program.

For purposes of the additional independence test for compensation committee members described in proposed Rule 14.10(c)(4)(B), any reference to the ''Company'' includes any parent or subsidiary of the Company. The term ''parent or subsidiary'' is intended to cover entities the Company controls and consolidates with the Company's financial statements as filed with the Commission (but not if the Company reflects such entity solely as an investment in its financial statements).

Proposed Interpretation and Policy .07 would set forth the compensation committee composition requirements for Smaller Reporting Companies. Specifically, a Smaller Reporting Company must have a compensation committee with a minimum of two members. Each compensation committee member must be an Independent Director as defined under Rule 14.10(c)(1)(B). In addition, each such Smaller Reporting Company must have a formal written compensation committee charter or board resolution that specifies the committee's responsibilities and authority set forth in proposed Rule 14.10(c)(4)(A)(i)–(iii). However, in recognition of the fact that Smaller Reporting Companies may have fewer resources than larger Companies, Smaller Reporting Companies are not required to adhere to the additional compensation committee eligibility requirements in proposed Rule 14.10(c)(4)(B), or to incorporate into their formal written compensation committee charter or board resolution the specific compensation committee responsibilities and authority set forth in proposed Rule 14.10(c)(4)(D).

The Exchange also proposes to allow a Company that has ceased to be a Smaller Reporting Company to phase-in a fully-compliant compensation committee. Pursuant to Rule 12b–2 under the Act, a Company tests its status as a Smaller Reporting Company on an annual basis at the end of its most recently completed second fiscal quarter.[25] A Company which ceases to meet the requirements for Smaller Reporting Company status as of the Determination Date will cease to be a Smaller Reporting Company as of the beginning of the fiscal year following the Determination Date (the ''Start Date'').

By six months from the Start Date (*i.e.,* by six months after the beginning of its fiscal year), a Company that has ceased to be a Smaller Reporting Company must comply with the requirements of Rule 14.10(c)(4)(D) relating to certain compensation committee responsibilities and authority.[26] In addition, such a Company may phase in its compliance with the additional compensation committee composition requirements of Rule 14.10(c)(4)(B) relating to the receipt of compensatory fees and affiliation as follows: (1) one member must satisfy the requirements by six months from the Start Date; (2) a majority of members must satisfy the requirements by nine months from the Start Date; and (3) all members must satisfy the requirements by one year from the Start Date. Since a Smaller Reporting Company is required to have a compensation committee comprised of at least two Independent Directors, a Company that has ceased to be a Smaller Reporting Company may not use the phase-in schedule for the minimum size requirement or the requirement that the committee consist only of Independent Directors as defined under 14.10(c)(1)(B). During the phase-in schedule, a Company that has ceased to be a Smaller Reporting Company must continue to comply with the requirement to have a compensation committee comprised of at least two Independent Directors as defined under the Exchange's existing listing rules.

(g) Smaller Reporting Companies Exemption

The Exchange proposes to move existing Rule 14.10(e)(1)(F) to proposed Rule 14.10(c)(4)(F) with amendments to conform to Nasdaq Listing Rule 5605(d)(5). Current Rule 14.10(e)(1)(F) provides that Smaller reporting companies, as defined in Rule 12b–2 under the Act, are exempt from the Independent Director Oversight of Executive Officer Compensation requirements set forth in Rule 14.10(c)(4), except that compensation of the chief executive officer and all other Executive Officers of the Company must be determined, or recommended to the Board for determination, either by: (i) Independent Directors constituting a majority of the Board's Independent Directors in a vote in which only Independent Directors meeting the definition of Independent Director in Rule 14.10(c)(1)(B) participate; or (ii) a compensation committee comprised solely of Independent Directors meeting the definition of Independent Director in Rule 14.10(c)(1)(B). The rule further provides that the chief executive officer may not be present during voting or deliberations.

[25] *See* 17 CFR 240.12b–2.

[26] By six months from the Start Date, such a Company also must certify to the Exchange that: (i) it has complied with the requirement in Rule 14.10(c)(4)(A) to have a compensation committee charter including the content specified in Rule 14.110(c)(4)(A)(i)–(iv); and (ii) it has complied, or will within the applicable phase-in schedule comply, with the requirement in Rule 14.10(c)(4)(B) regarding compensation committee composition.

Now, the Exchange proposes to delete subparagraphs (i) and (ii) in existing Rule 14.10(e)(1)(F) and modify the proposed Rule to provide that a Smaller Reporting Company is not subject to the requirements of Rule 14.10(c)(4) except that a Smaller Reporting Company must have, and certify that it has and will continue to have, a compensation committee of at least two members, each of whom must be an Independent Director as defined under Rule 14.10(c)(1)(B). Proposed Rule 14.10(c)(4)(F) would also provide that a Smaller Reporting Company may rely on the exception in Rule 14.10(c)(4)(C) and the cure period in Rule 14.10(c)(4)(E). In addition, a Smaller Reporting Company must certify that it has adopted a formal written compensation committee charter or board resolution that specifies the content set forth in Rule 14.10(c)(4)(A)(i)–(iii). A Smaller Reporting Company does not need to include in its formal written compensation committee charter or board resolution the specific compensation committee responsibilities and authority set forth in Rule 14.10(c)(4)(D). As discussed above, the proposed amendments to Interpretation and Policy .07 to Rule 14.10 would provide additional clarity to the requirements for Smaller Reporting Companies and would make the policy substantively similar to Nasdaq IM–5605–6.

(h) Conforming Changes and Correction of Typographical Errors

The Exchange proposes to capitalize the term ''Independent Director'' throughout Rule 14.10(c)(3)(B) (Audit Committee Composition) and the term ''Company'' throughout Rule 14.10.

The Exchange proposes to modify the Audit Committee Charter requirement provided in Rule 14.10(c)(3)(A) to require a prospective review of the adequacy of the formal written charter on an annual basis,[27] similar to that proposed for the Compensation Committee Charter requirement under proposed Rule 14.10(c)(4)(A). Thus, proposed Rule 14.10(c)(3)(A) would provide that Each Company must certify that it has adopted a formal written audit committee charter and that the audit committee will review and reassess the adequacy of the formal written charter on an annual basis.

Existing Rule 14.10(c)(1)(B) includes a paragraph that provides that in addition to the requirements contained in this Rule 14.10(c)(1)(B), directors of a Company, in determining compensation of Executive Officers as described in Rule 14.10(c)(4)(B) (relating to compensation of Executive Officers), are also subject to additional factors for determining independence under Rule 14.10(c)(4). The Exchange proposes to delete this paragraph to conform to Nasdaq Rule 5605(a)(2)(G) and because the proposed compensation committee rules would already address this issue in proposed Rule14.10(c)(4)(B).

The Exchange also proposes to correct certain typographical errors in Rule 14.10(c)(1)(3) to maintain a clear Rulebook.

As discussed above, the Exchange notes that all of the proposed changes to Rule 14.10(c) described above are substantively similar to existing rules of another Exchange [28] that were approved by the Commission.[29]

(2) Direct Registration Program

Exchange Rules 14.3(b)(3) and 14.7(c) provide that all securities listed on the Exchange, with certain exceptions, must be eligible for a DRP operated by a clearing agency registered under Section 17A of the Act.[30] When this requirement was initially adopted, the Exchange recognized that the laws or regulations of certain foreign countries might make it impossible for companies incorporated in those countries to comply. Consequently, the rule permits a Foreign Private Issuer [31] to follow its home country practice in lieu of this requirement when prohibited from complying by a law or regulation in its home country.

The Exchange now proposes to amend this exemption to extend its application to all ''foreign issuers'' as that term is used in Securities Exchange Act Rule 3b–4 [32] rather than only to Foreign Private Issuers.[33] The Exchange believes this amendment is necessary because the same legal or regulatory impediments to DRP eligibility exist for a foreign issuer which is incorporated in a foreign jurisdiction but which does not qualify for Foreign Private Issuer status as is the case for a Foreign Private Issuer incorporated in the same jurisdiction which is currently eligible to utilize the existing exemption. Absent this extension of the scope of the exemption, the DRP eligibility requirement would render it impossible for a foreign issuer to list if it was not a Foreign Private Issuer but was incorporated in a foreign jurisdiction whose law or regulation made compliance with the DRP requirement impossible. As under the current exemption, a foreign issuer will have to submit to the Exchange a written statement from an independent counsel in the company's home country certifying that a law or regulation in the home country prohibits compliance with the DRP requirement in order to utilize the exemption.

The Exchange also proposes to amend the exemptions provided under Rule 14.3(b)(3) to conform with those provided in existing Rule 14.7. Specifically, Exchange Rule 14.7(a) provides that except as indicated in Rule 14.7(c), all securities listed on the Exchange (except securities which are book-entry only) must be eligible for a DRP operated by a clearing agency registered under Section 17A of the Act. Existing Rule 14.3(b)(3) provides that all securities initially listing on the Exchange must be eligible for a DRP operated by a clearing agency registered under Section 17A of the Act. It also provides that this provision does not extend to: (i) additional classes of securities of Companies which already have securities listed on the Exchange; (ii) Companies which immediately prior to such listing had securities listed on another registered securities exchange in the U.S.; or, (iii) non-equity securities that are book-entry only. As these exemptions are not provided in existing Rule 14.7 or other exchange rules, the Exchange proposed to delete them from Rule 14.3(b)(3). The proposed rule changes are substantively similar to existing rules on another exchange.[34]

Exchange Rule 14.10(e)(1)(C) provides limited exemptions with respect to certain corporate governance and reporting requirements for Foreign Private Issuers and also provides that a Foreign Private Issuer may follow its home country practice in lieu of the DRP requirement set forth in Rules 14.3(b)(3) and 14.7. As the proposed exemption to the DRP requirement expands beyond Foreign Private Issuers, the Exchange proposes to delete the reference to Rules 14.3(b)(3) and 14.7

[27] The proposed Rule is substantively identical to Nasdaq Rule 5605(d)(1).

[28] *See* Nasdaq Listing Rule 5605(d).

[29] *Supra* notes 10 and 11.

[30] 15 U.S.C. 78q–1.

[31] *See* Exchange Rule 14.1(a)(14).

[32] Exchange Act Rule 3b–4, 17 CFR 240.3b–4, defines the term ''foreign issuer'' as any issuer which is a foreign government, a national of any foreign country or a corporation or other organization incorporated or organized under the laws of any foreign country.

[33] The proposed amendments to the Exchange's DRP are substantively similar to changes made by Nasdaq. *See* Securities and Exchange Act Release No. 68238 (November 15, 2012) 77 FR 69911 (November 21, 2012) (SR–NASDAQ–2012–128) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Expand the Exemption to the Direct Registration Program Requirement to All Foreign Issuers Rather Than Only Foreign Private Issuers).

[34] *See* Nasdaq Listing Rules 5210(c) and 5255(c).

from Rule 14.10(e)(1)(C) and Interpretation and Policy .12 of Rule 14.10 to minimize confusion about the availability of such exemptions to foreign issuers that do not qualify for Foreign Private Issuer status.[35]

The Exchange also proposes to correct Rule inaccurate references in Interpretation and Policy .12 to Rule 14.10 and Rule 14.10(e)(1)(C)(i). Specifically, the Exchange proposes to make non-substantive changes to modify incorrect references from Rule 14.7 to Rule 14.10 and from Rule 14.3(e)(4) to 14.6(d). Additionally, the Exchange proposes to correct a title reference in Exchange Rule 14.10(e)(1)(C)(i) to correctly reflect the title of Rule 14.10(g) (Notification of Noncompliance). The Exchange also proposes to amend Interpretation and Policy .12 to Rule 14.10 to provide a more granular and accurate rule cite to the applicable audit committee requirement for Foreign Private Issuers provided under Rule 14.10(c)(3)(B)(i)(b). As discussed above, the Exchange also proposes to delete references to the Exchange's DRP from Interpretation and Policy .12. In place of the reference to the DRP provided in Interpretation and Policy .12, the Exchange proposes to reiterate the requirement that a Foreign Private Issuer must comply with the voting rights requirement under Rule 14.10(j). Further, as discussed below, the Exchange also proposes to add references to proposed Rule 14.6(b)(3) to proposed Interpretation and Policy .12. These proposed changes are also substantively similar to existing rules on another exchange.[36]

(3) Public Disclosure

The Exchange proposes to add an additional obligation to make public disclosure under proposed Rule 14.6(b)(3), which would require the disclosure of third party director and nominee compensation,[37] and is substantively similar to existing rules of another exchange.[38] Current Exchange Rules require listed companies to make public disclosure in several areas. For example, a listed company is required to publicly disclose material information that would reasonably be expected to affect the value of its securities or influence investors' decisions as well as when non-independent directors serve on a committee that generally requires only independent directors, such as for a controlled company or under exceptional and limited circumstances.[39] A listed company is also required to file required periodic reports with the Commission.[40] A principal purpose of these disclosure requirements is to protect investors and ensure these investors have necessary information to make informed investment and voting decisions.

As noted above, now the Exchange proposes to adopt Rule 14.6(b)(3) which would require the disclosure of third party director and nominee compensation. The preamble to proposed Rule 14.6(b)(3) would provide that Companies must disclose all agreements and arrangements in accordance with this rule by no later than the date on which the Company files or furnishes a proxy or information statement subject to Regulation 14A or 14C under the Act in connection with the Company's next shareholders' meeting at which directors are elected (or, if they do not file proxy or information statements, no later than when the Company files its next Form 10–K or Form 20–F).[41]

Proposed Rule 14.6(b)(3)(A) would require a Company to disclose either on or through the Company's website or in the proxy or information statement for the next shareholders' meeting at which directors are elected (or, if the Company does not file proxy or information statements, in its Form 10–K or 20–F), the material terms of all agreements and arrangements between any director or nominee for director, and any person or entity other than the Company (the ''Third Party''), relating to compensation or other payment in connection with such person's candidacy or service as a director of the Company. A Company need not disclose pursuant to this rule agreements and arrangements that: (i) relate only to reimbursement of expenses in connection with candidacy as a director; (ii) existed prior to the nominee's candidacy (including as an employee of the other person or entity) and the nominee's relationship with the Third Party has been publicly disclosed in a proxy or information statement or annual report (such as in the director or nominee's biography); or (iii) have been disclosed under Item 5(b) of Schedule 14A of the Act or Item 5.02(d)(2) of Form 8–K in the current fiscal year. Proposed Rule 14.6(b)(3)(A) would further provide that disclosure pursuant to Commission rule shall not relieve a Company of its annual obligation to make disclosure under proposed subparagraph (B).[42]

Proposed Rule 14.6(b)(3)(B) would provide that a Company must make the disclosure required in proposed subparagraph (A) at least annually until the earlier of the resignation of the director or one year following the termination of the agreement or arrangement.[43] In recognition that a company, despite reasonable efforts, may not be able to identify all such agreements and arrangements, proposed Rule 14.6(b)(3)(C) would provide that if a Company discovers an agreement or arrangement that should have been disclosed pursuant to proposed subparagraph (A) but was not, the Company must promptly make the required disclosure by filing a Form 8–K or 6–K, where required by SEC rules, or by issuing a press release. Remedial disclosure under this proposed subparagraph, regardless of its timing, does not satisfy the annual disclosure requirements under proposed subparagraph (B).[44]

Proposed Rule 14.6(b)(3)(D) would provide that a Company shall not be considered deficient with respect to this paragraph for purposes of Rule 14.12 if the Company has undertaken reasonable efforts to identify all such agreements or arrangements, including asking each director or nominee in a manner designed to allow timely disclosure, and makes the disclosure required by proposed subparagraph (C) promptly upon discovery of the agreement or arrangement. In all other cases, the Company must submit a plan sufficient to satisfy Exchange staff that the Company has adopted processes and procedures designed to identify and disclose relevant agreements or arrangements.[45] In cases where a company is considered deficient for purposes of Rule 14.12, the company

[35] The proposed rule changes are substantively identical to Nasdaq Rule 5615(a)(3) and IM–5613–3.

[36] *Id.*

[37] The Exchange notes that the proposal is substantively similar to other proposed rules approved by the Commission. *See* Securities and Exchange Act Nos. 77481 (March 30, 2016) 81 FR 19678 (April 5, 2016) (SR–NASDAQ–2016–013) (Notice of Filing of Proposed Rule Change To Require Listed Companies to Publicly Disclose Compensation or Other Payments by Third Parties to Board of Director's Members or Nominees); 78223 (July 1, 2016) 81 FR 44400 (July 7, 2016) (Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 2, To Require Listed Companies to Publicly Disclose Compensation or Other Payments by Third Parties to Board of Director's Members or Nominees).

[38] *See* Nasdaq Listing Rule 5250(b)(3).

[39] *See* Exchange Rules 14.6(b)(1), 14.10(e)(3)(B), 14.10(c)(3)(B)(ii), and 14.10 (c)(5)(C).

[40] *See* Exchange Rule 14.6(c).

[41] The proposed rule is substantively identical to the preamble of Nasdaq Rule 5250(b)(3).

[42] The proposed rule is substantively identical to Nasdaq Rule 5250(b)(3)(A).

[43] The proposed rule is substantively identical to Nasdaq Rule 5250(b)(3)(B).

[44] The proposed rule is substantively identical to Nasdaq Rule 5250(b)(3)(C).

[45] The proposed rule is substantively identical to Nasdaq Rule 5250(b)(3)(D).

must provide a plan to regain compliance as provided under proposed Rule 14.12(f)(2)(A)(iv). Consistent with deficiencies from most other rules that allow a company to submit a plan to regain compliance,[46] the Exchange proposes to allow companies deficient under the proposed rule 45 calendar days to submit a plan sufficient to satisfy Exchange staff that the company has adopted processes and procedures designed to identify and disclose relevant agreements and arrangements in the future.[47] If the company does not do so, it would be issued a Staff Delisting Determination, which the company could appeal to a Hearings Panel pursuant to Rule 14.12. This proposal to adopt new Exchange Rule 14.12(f)(2)(A)(iv) and to modify and renumber existing Rules 14.12(f)(2)(A)(iv) and (v) to provide for the proposed Rule 14.12(f)(2)(A)(iv) is substantively similar to existing rules on another exchange.[48]

Finally, proposed Rule 14.6(b)(3)(E) would provide that a Foreign Private Issuer may follow its home country practice in lieu of the requirements of Rule 14.6(b)(3) by utilizing the process described in Rule 14.10(e)(1)(C). Consistent with other exemptions afforded certain types of companies, the Exchange is also proposing to amend Exchange Rule 14.10(e)(1)(C) to provide that a Foreign Private Issuer may follow home country practice in lieu of the requirements of proposed Rule 14.6(b)(3). The proposal for this exemption is identical to an existing exemption provided on another exchange.[49]

The Exchange also proposes to adopt Interpretation and Policy .03 to Rule 14.6 to add clarity and additional guidance to the requirements of proposed Rule 14.6(b)(3). Specifically, proposed Interpretation and Policy .03 would provide that the terms ''compensation'' and ''other payment'' as used in this proposed rule are intended to be construed broadly. Therefore, the terms would apply to agreements and arrangements that provide for non-cash compensation and other payment obligations, such as health insurance premiums or indemnification, made in connection with a person's candidacy or service as a director. Further, at a minimum, the disclosure should identify the parties to and the material terms of the agreement or arrangement relating to compensation.[50]

Proposed Interpretation and Policy .03 to Rule 14.6 would also provide that Subject to exceptions provided in the rule, the disclosure must be made on or through the Company's website or in the proxy or information statement for the next shareholders' meeting at which directors are elected in order to provide shareholders with information and sufficient time to help them make meaningful voting decisions. A Company posting the requisite disclosure on or through its website must make it publicly available no later than the date on which the Company files a proxy or information statement in connection with such shareholders' meeting (or, if they do not file proxy or information statements, no later than when the Company files its next Form 10–K or Form 20–F). Disclosure made available on the Company's website or through it by hyperlinking to another website, must be continuously accessible. If the website hosting the disclosure subsequently becomes inaccessible or that hyperlink inoperable, the company must promptly restore it or make other disclosure in accordance with this rule. Rule 14.6(b)(3) does not separately require the initial disclosure of newly entered into agreements or arrangements, provided that disclosure is made pursuant to this rule for the next shareholders' meeting at which directors are elected. In addition, for publicly disclosed agreements and arrangements that existed prior to the nominee's candidacy and thus not required to be disclosed in accordance with proposed Rule 14.6(b)(3)(A)(ii) but where the director or nominee's remuneration is thereafter materially increased specifically in connection with such person's candidacy or service as a director of the Company, only the difference between the new and previous level of compensation or other payment obligation needs be disclosed. All references in this rule to proxy or information statements are to the definitive versions thereof.[51]

(4) Market Value Definition and Shareholder Approval

Exchange Rule 14.10(i) sets forth the circumstances under which shareholder approval is required prior to an issuance of securities in connection with (1) the acquisition of the stock or assets of another company; (2) a change of control; (3) equity-based compensation of officers, directors, employees or consultants; and (4) private placements. Specifically, under current Rule 14.10(i)(4), shareholder approval is required prior to the issuance of securities in connection with a transaction other than a public offering involving:

(A) the sale, issuance or potential issuance by the Company of common stock (or securities convertible into or exercisable for common stock) at a price less than the greater of book or market value which together with sales by officers, directors or Substantial Shareholders[52] of the Company equals 20% or more of common stock or 20% or more of the voting power outstanding before the issuance; or (B) the sale, issuance or potential issuance by the Company of common stock (or securities convertible into or exercisable common stock) equal to 20% or more of the common stock or 20% or more of the voting power outstanding before the issuance for less than the greater of book or market value of the stock. Exchange Rule 14.1(a)(19) defines ''market value'' as the closing bid price. Now, the Exchange proposes to make certain changes to Rule 14.10(i) as described below, and to modify the measure of market value for the purpose of Rule 14.10(i)(4) from the closing bid price to the lower of: (i) BZX Official Closing Price[53] as reflected on Cboe.com or (ii) the average BZX Official Closing Price of the common stock as available on Cboe.com for the five trading days immediately preceding the signing of the binding agreement.

The Exchange also proposes to amend the preamble and to Rule 14.10(i) and

[46] Pursuant to Rule 14.12(f)(2)(A), a company is provided 45 days to submit a plan to regain compliance with Rules 14.10(f)(3) (Quorum), 14.10(h) (Review of Related Party Transactions), 14.10(i) (Shareholder Approval), 14.6(c)(3) (Auditor Registration), 14.7 (Direct Registration Program), 14.10(d) (Code of Conduct), 14.10(e)(1)(D)(v) (Quorum of Limited Partnerships), 14.10(e)(1)(D)(vii) (Related Party Transactions of Limited Partnerships), or 14.10(j) (Voting Rights). A company is generally provided 60 days to submit a plan to regain compliance with the requirement to timely file periodic reports contained in Rule 14.12(f)(2)(F).

[47] The proposed rule is substantively identical to Nasdaq Rule 5810(c)(2), except as for the reference to board disclosure rules which the Exchange is not proposing to adopte.

[48] *See* Nasdaq Listing Rule 5810(c)(2)(A)(i) through (v).

[49] *See* Nasdaq Listing Rule 5615(a)(3).

[50] The Exchange notes that the proposal is substantively similar to other proposed rules approved by the Commission. *See* Securities and Exchange Act Nos. 77481 (March 30, 2016) 81 FR 19678 (April 5, 2016) (SR–NASDAQ–2016–013) (Notice of Filing of Proposed Rule Change To Require Listed Companies to Publicly Disclose Compensation or Other Payments by Third Parties to Board of Director's Members or Nominees); 78223 (July 1, 2016) 81 FR 44400 (July 7, 2016) (Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 2, To Require Listed Companies to Publicly Disclose Compensation or Other Payments by Third Parties to Board of Director's Members or Nominees).

[51] *Id.*

[52] *See* Exchange Rule 14.10(i)(5)(C).

[53] *See* Exchange Rule 11.23(a)(3).

the title of Rule 14.10(i)(4) to replace references to ''private placements'' with ''transactions other than public offerings'', which conforms the language to that in existing Interpretation and Policy .18 to Rule 14.10. Private placements would continue to be considered ''transactions other than public offerings'' under the proposed rule change, and the proposed change does not change the essence of the current rule.

The Exchange notes that the proposed changes to Exchange Rule 14.10(i) and Interpretation and Policy .18 to Rule 14.10 are substantively similar to rules of another Exchange that were previously approved by the Commission.[54]

(a) Closing Price

The BZX Official Closing Price refers to the price disseminated to the consolidated tape as the market center closing trade, which is derived from the closing auction on the Exchange if a closing auction occurs.[55] The Exchange's closing auction is designed to gather the maximum liquidity available for execution at the close of trading, and to maximize the number of shares executed at a single price at the close of the trading day. The closing auction promotes accurate closing prices by offering specialized orders available only during the closing auction and integrating those orders with regular orders submitted during the trading day that are still available at the close. Further, the Exchange believes the price of an executed trade is generally viewed as a more reliable indicator of value than a bid quotation. Given this combined with the fact that the proposal to use the official closing price rather than the closing bid price is similar to the rules of another exchange (except that it uses its own closing price)[56] the Exchange believes it is appropriate to use the BZX Official Closing Price rather than the closing bid price.

In addition, because prices are displayed from numerous data sources on different websites, to provide transparency within the rule to the appropriate price and assure that companies and investors use the BZX Official Closing Price when pricing transactions, the Exchange proposes to codify within the proposed Rule 14.10(i)(4)(A)(i) that *Cboe.com* is the appropriate source of the closing price information.

(b) Five-Day Average Price

The Exchange proposes to amend Rule 14.10(i)(4) to define a new concept as the ''Minimum Price'' and eliminate references to book value and eliminating the current definition of market value[57] from Rule 14.10(i)(4). Minimum Price would be defined under proposed Rule 14.10(i)(4)(A)(i) as price that is the lower of: (a) the BZX Official Closing Price (as reflected on *Cboe.com*) for the five trading immediately preceding the signing of the binding agreement; or (b) the average BZX Official Closing Price of the common stock as reflected on (*Cboe.com*) for the five trading days immediately preceding the signing of the binding agreement. This means that the issuance would not require an approval by company's shareholders, so long as it is at a price that is greater than the lower of those measures.

The Exchange believes that while investors and companies sometimes prefer to use an average when pricing transactions, there are potential negative consequences to using a five-day average as the sole measure of whether shareholder approval is required. For example, in a declining market, the five-day average closing price will be above the current market price, which could make it difficult for companies to close transactions because investors could buy shares at a lower price in the market. Conversely, using a five-day average in a rising market the five-day average closing price will appear to be at a discount to the closing current market price. Further, if material news is announced during the five-day period, the average price could be a worse reflection of market value than the closing price after the news is disclosed. The Exchange believes that these risks of using the five-day average closing price are already accepted by the market, as evidenced by the use of an average price in transactions that do not require shareholder approval, such as those transactions where less than 20% of the outstanding shares are being issued. Nonetheless, the Exchange believes the proposal balances this risk because an issuance would not require shareholder approval as long as the issuance occurs at a price greater than the lower of the two proposed measures.

To improve the readability of the rule, the Exchange proposes to eliminate references to book value and current definition of market value from Rule 14.10(i)(4) and to instead reference the defined term Minimum Price. The Exchange notes that the proposal is substantively similar to existing rules of another exchange.[58]

(c) Book Value

The Exchange proposes to eliminate the requirement for shareholder approval of issuances at a price less than book value but greater than market value. Book value is an accounting measure and its calculation is based on the historic cost of assets, not their current value. As such the Exchange believes that book value is not an appropriate measure of whether a transaction is dilutive or should otherwise require shareholder approval. Further, the proposal is substantively similar to existing rules of another exchange.[59]

(d) Other Changes to the Shareholder Approval Requirement

The Exchange proposes to revise Exchange Rule 14.10(i)(4) to provide that shareholder approval is required prior to a 20% issuance at a price that is less than the Minimum Price. To improve the readability of Exchange Rule 14.10(i)(4), the Exchange proposes to define ''20% Issuance'' as ''a transaction, other than a public offering[60] as defined in Rule 14.10, Interpretation and Policy .18, involving the sale, issuance or potential issuance by the Company of common stock (or securities convertible into or exercisable for common stock), which alone or together with sales by officers, directors or Substantial Shareholders of the Company, equals 20% or more of the common stock or 20% or more of the

[54] *See* Securities Exchange Act Nos. 82702 (February 13, 2018) 83 FR 7269 (February 20, 2018) (SR–NASDAQ–2018–008) (Notice of Filing of Proposed Rule Change To Modify the Listing Requirements Contained in Listing Rule 5635(d) To Change the Definition of Market Value for Purposes of the Shareholder Approval Rules and Eliminate the Requirement for Shareholder Approval of Issuances at a Price Less Than Book Value but Greater Than Market Value) and 84287 (September 26, 2018) 83 FR 49599 (October 2, 2018) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Modify the Listing Requirements Contained in Listing Rule 5635(d) To Change the Definition of Market Value for Purposes of the Shareholder Approval Rule and Eliminate the Requirement for Shareholder Approval of Issuances at a Price Less Than Book Value but Greater Than Market Value). *See also* Securities Exchange Act No. 88056 (January 28, 2020) 85 FR 6003 (February 3, 2020) (SR–NASDAQ–2020–004) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Clarify the Term ''Closing Price'' in Rule 5635(d)(1)(A) Relating to Shareholder Approval for Transactions Other Than Public Offerings).

[55] If an issue does not have a closing auction (*e.g.,* there is insufficient interest to conduct a closing auction), the BZX Official Closing Price will be the Final Last Sale Eligible Trade.

[56] *See* Nasdaq Listing Rule 5635(d).

[57] ''Market value'' is defined in Exchange Rule 14.1(a)(19) and is applicable to the shareholder approval rules as well as other listing rules.

[58] *See* Nasdaq Listing Rule 5635(d)(1)(A).

[59] *See* Nasdaq Listing Rule 5635(d)(1)(B).

[60] Transactions other than public offerings is also the proposed title to Rule 14.10(i)(4).

voting power outstanding before the issuance.'' This definition combines the situations described in existing Rule 14.10(i)(4)(A) and (B) into one provision and makes no substantive change to the threshold for quantity or voting power of shares being sold that would give rise to the need for shareholder approval, although as described above, the applicable pricing test will change.

Finally, the Exchange proposes to amend Rule 14.10 Interpretations and Policies .18 and .19, which describe how the Exchange applies the shareholder approval requirements, to conform references to book and market value with the new definition of Minimum Price, as described above, and to utilize the newly defined term 20% Issuance. The Exchange also proposes to correct an incorrect reference to the Exchange's rules relating to a Company's failure to meeting listing standards from Rule 14.9 to 14.12.

As noted above, the proposed changes to Exchange Rule 14.10(i) and Interpretation and Policy .18 to Rule 14.10 are substantively similar to rules of another Exchange that were previously approved by the Commission.[61]

(5) Exemptions to Certain Corporate Governance Requirements

The Exchange proposes to amend and expand the exemptions available to issuers of certain securities from some of the Exchange's corporate governance requirements and to define certain of those securities as ''Derivative Securities''. The Exchange also proposes to amend Exchange Rule 14.10 Interpretation and Policy .15 to modify the exemptions from the annual meeting requirements. The Exchange notes that the proposed changes would result in rules that are substantively similar to the existing rules of other exchanges.[62]

Exchange Rule 14.10(e) currently provides exemptions to issuers of certain securities listed on the Exchange from portions of the corporate governance requirements. Specifically, Exchange Rule 14.10(e)(1)(A) provides exemptions for asset-backed issuers[63] and other passive issuers[64] from the provisions of Exchange Rule 14.10(c)(2) (Independent Directors), Exchange Rule 14.10(c)(3) (Audit Committee Requirements), Exchange Rule 14.10(c)(4) (Independent Director Oversight of Executive Officer Compensation), Exchange Rule 14.10(c)(5) (Independent Director Oversight of Director Nominations), Exchange Rule 14.10(d) (Code of Conduct), and Exchange Rule 14.10(e)(3) (Controlled Company Exemption). Exchange Rule 14.10(e)(1)(E) provides exemptions for management investment companies registered under the Investment Company Act of 1940[65] from the provisions of Exchange Rule 14.10(c)(2) (Independent Directors), Exchange Rule 14.10(c)(4) (Independent Director Oversight of Executive Officer Compensation), Exchange Rule 14.10(c)(5) (Independent Director Oversight of Director Nominations), and Exchange Rule 14.10(d) (Code of Conduct). In addition, under Exchange Rule 14.10(e)(1)(E), management investment companies are exempt from Exchange Rule 14.10(c)(3) (Audit Committee Requirements), except for the provisions of Rule 10A–3 under the Exchange Act.[66]

Currently, products that can rely on the exemptions within Exchange Rule 14.10(e)(1)(E) are Index Fund Shares (Exchange Rule 14.11(c)), Managed Fund Shares (Exchange Rule 14.11(i)), Managed Portfolio Shares (Exchange Rule 14.11(k)), ETF Shares (Exchange Rule 14.11(l)), and Tracking Fund Shares (Exchange Rule 14.11(m)). Additionally, Rule 14.10 Interpretation and Policy .15 provides exemptions to issuers of certain securities listed pursuant to the requirements of Exchange Rule 14.10(f) (Meetings of Shareholders). Currently, Portfolio Depositary Receipts (Exchange Rule 14.11(b)), Index Fund Shares (Exchange Rule 14.11(c)), and Trust Issued Receipts (Exchange Rule 14.11(f)) are exempt from the annual meeting requirements.[67]

The Exchange now proposes to add a definition of ''Derivative Securities'' to Exchange Rule 14.10(e)(1)(F)(ii) (the ''Proposed Definition''), as discussed in the ''Definition of Derivative Securities'' section below. Further, the Exchange proposes to adopt Rule 14.10(e)(1)(F)(i), which would provide that issuers whose only securities listed on the Exchange are non-voting preferred securities, debt securities or Derivative Securities, are exempt from the requirements relating to Independent Directors (as set forth in Rule 14.10(c)(2)), Independent Director Oversight of Executive Officer Compensation (as set forth in Rule 14.10(c)(4)), Director Nominations (as set forth in Rule 14.10(c)(5)), Code of Conduct (as set forth in Rule 14.10(d)), and Meetings of Shareholders (as set forth in Rule 14.10(f)). In addition, these issuers are exempt from the requirements relating to Audit Committees (as set forth in Rule 14.10(c)(3)), except for the applicable requirements of SEC Rule 10A–3. Notwithstanding, if the issuer also lists its common stock or voting preferred stock, or their equivalent on the Exchange it will be subject to all the requirements of Exchange Rule 14.10. Rule 14.10(e)(1)(F)(i) will continue to require such companies to comply with the requirements of Exchange Rule 14.10(g), pursuant to which an issuer will provide the Exchange with prompt notification after an executive officer of the company becomes aware of any noncompliance by the company with the requirements of Exchange Rule 14.10. The Exchange notes that proposed Rule 14.10(e)(1)(F)(i) and (ii) are substantively similar to rules on other exchanges.[68]

The Exchange also proposes to amend Exchange Rule 14.10 Interpretation and Policy .15 to amend the annual meeting requirements of Exchange Rule 14.10(f) to clarify that issuers of only non-voting preferred securities, debt securities or Derivative Securities[69] are not subject

[61] *Supra* notes 55 and 56.

[62] *See* Nasdaq Listing Rules 5615(a), IM–5615–4, and IM–5620; NYSE Arca, Inc. (''NYSE Arca'') Rule 5.3–E.

[63] Rule 14.10 Interpretation and Policy .10 defines as issuers ''that are organized as trusts or other unincorporated associations that do not have a board of directors or persons acting in a similar capacity and whose activities are limited to passively owning or holding (as well as administering and distributing amounts in respect of) securities, rights, collateral or other assets on behalf of or for the benefit of the holders of the listed securities.''

[64] Exchange Rule 14.10(e)(1)(A)(i)(b) includes Portfolio Depositary Receipts as an example of a passive issuer.

[65] 15 U.S.C. 80a.

[66] 17 CFR 240.10A–3.

[67] Rule 14.10 Interpretation and Policy .15 also exempts securities listed pursuant to Exchange Rule 14.11(h) (unless the listed security is a common stock or voting preferred stock equivalent).

[68] *See* Nasdaq Listing Rule 5615(a)(6) and Arca Rule 5.3–E. *See also* Securities Exchange Act No. 86072 (June 10, 2019) 84 FR 27816 (June 14, 2019) (SR–NASDAQ–2019–039) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Nasdaq Rule 5615 To Allow Additional Issuers Who List Only Specific Securities To Be Able To Avail Themselves of Certain Exemptions Under Corporate Governance Requirements and To Amend Nasdaq Rule IM–5620 To Exclude Additional Categories of Issuers Listing Only Specific Securities From the Annual Shareholder Meeting Requirement); Securities Exchange Act No. 83324 (May 24, 2018) 83 FR 25076 (May 31, 2018) (SR–NYSEArca–2018–31) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend NYSE Arca Rule 5.3–E To Exclude Certain Categories of Issuers From the Exchange's Annual Meeting Requirement).

[69] The Exchange is proposing to expand the list of products that are exempt from the annual meeting requirements of Exchange Rule 14.10(f). The proposed list of products consists of: Commodity Futures Trust Shares; Commodity Index Trust Shares; Commodity-Based Trust Shares; Commodity-Linked Securities; Currency Trust Shares; Equity Gold Shares; Equity Index-Linked

Continued

to the rule. The Exchange believes that the proposed amendment is appropriate because the holders of non-voting preferred securities, debt securities or Derivative Securities do not have voting rights with respect to the election of directors except in very limited circumstances as required by federal or state law or their governing documents. The rule will continue to state that if the Company also lists common stock or voting preferred stock, or their equivalent, on the Exchange, the Company will be subject to the annual meeting requirements of Exchange Rule 14.10(f). The proposed change is substantively identical to an existing rule on another exchange.[70]

Definition of ''Derivative Security''

The proposed definition of Derivative Security will include: Commodity Futures Trust Shares; Commodity Index Trust Shares; Commodity-Based Trust Shares; Commodity-Linked Securities; Currency Trust Shares; Equity Gold Shares; Equity Index-Linked Securities; ETF Shares; Fixed Income Index-Linked Securities; Futures-Linked Securities; Index Fund Shares; Index-Linked Exchangeable Notes; Managed Fund Shares; Managed Portfolio Shares; Managed Trust Securities; Multifactor Index-Linked Securities; Partnership Units; Portfolio Depository Receipts; Selected Equity-linked Debt Securities (''SEEDS''); Tracking Fund Shares; Trust Certificates; and Trust Issued Receipts. Each of these types of securities is similarly exempt from the corporate governance requirements as proposed herein on another exchange,[71] as summarized in the table below:

Product type	Exchange rule	Nasdaq rule	NYSE arca rule
Commodity Futures Trust Shares	14.11(e)(7)	Rule 5711(g)	8.204–E.
Commodity Index Trust Shares	14.11(e)(6)	Rule 5711(f)	8.203–E.
Commodity-Based Trust Shares	14.11(e)(4)	Rule 5711(d)	8.201–E.
Commodity-Linked Securities	14.11(d)	Rule 5710(k)(ii)	5.2–E(j)(6)(B)(II).
Currency Trust Shares	14.11(e)(5)	Rule 5711(e)	8.202–E.
Equity Gold Shares	14.11(e)(2)	Rule 5711(b)	5.2–E(j)(5).
Equity Index-Linked Securities	14.11(d)	Rule 5710(k)(i)	5.2E(j)(6)(B)(I).
Exchange-Traded Fund Shares	14.11(l)	Rule 5704	5.2–E(j)(8).
Fixed Income Index-Linked Securities	14.11(d)	5710(k)(iii)	5.2E(j)(6)(B)(IV).
Futures-Linked Securities	14.11(d)	5710(k)(iv)	5.2E(j)(6)(B)(V).
Index Fund Shares*	14.11(c)	Rule 5750	5.2E(j)(3).
Index-Linked Exchangeable Notes	14.11(e)(1)	Rule 5711(a)	5.2–E(j)(4).
Managed Fund Shares	14.11(i)	Rule 5735	8.600–E.
Managed Portfolio Shares	14.11(k)	Rule 5745	8.900–E.
Managed Trust Securities	14.11(e)(10)	Rule 5711(j)	8.700–E.
Multifactor Index-Linked Securities	14.11(d)	5710(k)(v)	5.2E(j)(6)(B)(VI).
Partnership Units	14.11(e)(8)	Rule 5711(h)	8.300–E.
Portfolio Depository Receipts	14.11(b)	Rule 5705	8.100–E.
SEEDS	14.11(e)(12)	Rule 5715	5.2–E(j)(2).
Tracking Fund Shares**	14.11(m)	Rule 5750	8.601–E.
Trust Certificates	14.11(e)(3)	Rule 5711(c)	5.2–E(j)(7).
Trust Issued Receipts	14.11(f)	Rule 5720	8.200–E.

* Index Fund Shares are generally equivalent to Investment Company Units listed pursuant to NYSE Arca Rule 5.2–E(j)(3).
** Tracking Fund Shares are generally equivalent to Active Proxy Portfolio Shares listed pursuant to NYSE Arca Rule 8.601–E and Proxy Portfolio Shares listed pursuant to Nasdaq Rule 5750.

Portfolio Depositary Receipts & Index Fund Shares

The Exchange believes it is appropriate that Portfolio Depositary Receipts and Index Fund Shares are included in the Proposed Definition and, therefore, entitled to the exemptions proposed herein because these securities are currently exempt from the provisions Exchange Rule 14.10(c)(2) (Independent Directors), Exchange Rule 14.10(c)(4) (Independent Director Oversight of Executive Officer Compensation), Exchange Rule 14.10(c)(5) (Independent Director Oversight of Director Nominations), Exchange Rule 14.10(d) (Code of Conduct), and Exchange Rule 14.10(f) (Meetings of Shareholders).[72] Further, both Portfolio Depositary Receipts and Index Fund Shares are exempt from the same corporate governance requirements on another exchange.[73]

Equity Index-Linked Securities, Commodity-Linked Securities, Fixed Income Index-Linked Securities, Futures-Linked Securities, Multifactor Index-Linked Securities, Index-Linked Exchangeable Notes, and SEEDs

The Exchange also believes it is appropriate that Equity Index-Linked Securities, Commodity-Linked Securities, Fixed Income Index-Linked Securities, Futures-Linked Securities, Multifactor Index-Linked Securities,

Securities; Exchange-Traded Fund Shares; Fixed Income Index-Linked Securities; Futures-Linked Securities; Index Fund Shares; Index-Linked Exchangeable Notes; Managed Fund Shares; Managed Portfolio Shares; Managed Trust Securities; Multifactor Index-Linked Securities; Partnership Units; Portfolio Depository Receipts; SEEDS; Tracking Fund Shares; Trust Certificates; and Trust Issued Receipts. Portfolio Depositary Receipts, Index Fund Shares and Trust Issued Receipts are currently excluded from the annual meeting requirement Exchange Rule 14.10(f).

[70] *See* Nasdaq Listing Rule IM–5620. *See also* Securities Exchange Act No. 86072 (June 10, 2019) 84 FR 27816 (June 14, 2019) (SR–NASDAQ–2019–039) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Nasdaq Rule 5615 To Allow Additional Issuers Who List Only Specific Securities To Be Able To Avail Themselves of Certain Exemptions Under Corporate Governance Requirements and To Amend Nasdaq Rule IM–5620 To Exclude Additional Categories of Issuers Listing Only Specific Securities From the Annual Shareholder Meeting Requirement).

[71] *See* Nasdaq Listing Rules 5615(a), IM–5615–4, and IM–5620; NYSE Arca Rule 5.3–E.

[72] *See* Exchange Rule 14.10(e)(1)(E) and Interpretation and Policy .15 to Rule 14.10 for the exemptions for Index Fund Shares and 14.10(e)(1)(A) and Interpretation and Policy .15 to Rule 14.10 for the exemptions regarding Portfolio Depositary Receipts.

[73] *See* Securities Exchange Act No. 86072 (June 10, 2019) 84 FR 27816 (June 14, 2019) (SR–NASDAQ–2019–039) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Nasdaq Rule 5615 To Allow Additional Issuers Who List Only Specific Securities To Be Able To Avail Themselves of Certain Exemptions Under Corporate Governance Requirements and To Amend Nasdaq Rule IM–5620 To Exclude Additional Categories of Issuers Listing Only Specific Securities From the Annual Shareholder Meeting Requirement).

Index-Linked Exchangeable Notes and SEEDS are included in the Proposed Definition and, therefore, entitled to the exemptions proposed herein because each are separate forms of unsecured debt of an issuer that is already subject to the corporate governance and annual meeting requirements of a national securities exchange and will continue to be required under such rules.[74]

If the issuer is listed on the Exchange, it is already subject to the requirements of Exchange Rule 14.10. If the issuer is listed on Nasdaq or NYSE Arca, it is already subject to corporate governance standards that are substantively similar to the Exchange's corporate governance rules as proposed herein. In addition, the Exchange believes that it is appropriate to exempt these securities from the annual meeting requirements of Exchange Rule 14.10(f) because the holders of these securities have economic interests and other limited rights that do not include voting rights. The Exchange notes that these issuers may still be required to hold shareholder meetings, including special meetings, as required by federal or state law or their governing documents.

In addition, while unlike traditional debt securities, these securities derive their value from the performance of an underlying index or reference asset, they retain many of the same characteristics as traditional debt securities [75] and, therefore, the Exchange believes it is consistent to treat them accordingly with regard to the corporate governance and annual meeting requirements.

The Exchange notes that these securities are already similarly exempted from the same corporate governance requirements on other exchanges.[76]

Equity Gold Shares

Similarly, the Exchange believes it is appropriate that Equity Gold Shares are included in the Proposed Definition and, therefore, entitled to the exemptions proposed herein because like such classes of derivative securities, Equity Gold Shares are passive investment vehicles that hold a beneficial interest in a specified commodity trust. In addition, Equity Gold Shares are treated in a similar fashion to Index Fund Shares under the existing Exchange rules.[77] Therefore, the Exchange believes it is appropriate that Equity Gold Shares are included in the Proposed Definition and, therefore, entitled to the exemptions proposed herein as Index Fund Shares are already exempt from certain provisions of Exchange Rule 14.10. The Exchange notes that Equity Gold Shares are already similarly exempted from the same corporate governance requirements on other exchanges.[78]

Trust Certificates

The Exchange believes it is appropriate that Trust Certificates are included in the Proposed Definition and, therefore, entitled to the exemptions proposed herein because these securities represent an interest in a passive investment vehicle that are issued by entities created solely to issue securities and invest in the underlying index or reference assets. The trust does not have a board of directors and the holders of Trust Certificates have no voting rights, unless required under state law, with regard to corporate matters, including election of trustees. Therefore, the Exchange believes that Trust Certificates should be included in the Proposed Definition and should not be subject to the annual meeting requirements of Exchange Rule 14.10(f). The Exchange notes that these issuers may still be required to hold shareholder meetings, including special meetings, as required by federal or state law or their governing documents. The Exchange further notes that Trust Certificates are already similarly exempted from the same corporate governance requirements on other exchanges.[79]

Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, and Commodity Futures Trust Shares

The Exchange also believes it is appropriate that Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, and Commodity Futures Trust Shares are included in the Proposed Definition and, therefore, entitled to the exemptions proposed herein because shares of these securities are passive investment vehicles that hold a beneficial interest in a specified commodity trust that is not managed like a corporation and does not have officers or a board of directors. These securities are already exempt from Exchange Rule 14.10(c)(2) (Independent Directors), Exchange Rule 14.10(c)(4) (Independent Director Oversight of Executive Officer Compensation), Exchange Rule 14.10(c)(5) (Independent Director Oversight of Director Nominations), and Exchange Rule 14.10(d) (Code of Conduct). In addition, while shareholders may have limited voting rights in certain circumstances, they do not have the right to elect directors. Therefore, given the limited voting rights, lack of directors or officers, and the passive nature of the trust, the Exchange believes these securities should not be subject to the annual meeting requirements of Exchange Rule 14.10(f). The Exchange notes that these issuers may still be required to hold shareholder meetings, including special meetings, as required by federal or state law or their governing documents. The Exchange also notes that these securities are already similarly exempted from the same corporate governance requirements on other exchanges.[80]

Partnership Units

The Exchange also believes that it is appropriate that Partnership Units are included in the Proposed Definition and, therefore, entitled to the exemptions proposed herein because Partnership Units are passive

[74] Exchange Rule 14.11(h)(1)(E), with which securities listed pursuant to Rule 14.11(d), 14.11(f), and 14.11(h) must comply, states, in part, the issuers of these securities must be ''listed on the Exchange, the NYSE or NASDAQ, or must be an affiliate of a Company listed on the Exchange, the NYSE or NASDAQ''.

[75] Like traditional debt securities, these securities are debt of the issuer and have a specific date of maturity.

[76] Nasdaq Listing Rule 5615(a)(6) and Arca Rule 5.3–E. *See also* Securities Exchange Act No. 86072 (June 10, 2019) 84 FR 27816 (June 14, 2019) (SR–NASDAQ–2019–039) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Nasdaq Rule 5615 To Allow Additional Issuers Who List Only Specific Securities To Be Able To Avail Themselves of Certain Exemptions Under Corporate Governance Requirements and To Amend Nasdaq Rule IM–5620 To Exclude Additional Categories of Issuers Listing Only Specific Securities From the Annual Shareholder Meeting Requirement); Securities Exchange Act No. 83324 (May 24, 2018) 83 FR 25076 (May 31, 2018) (SR–NYSEArca–2018–31) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend NYSE Arca Rule 5.3–E To Exclude Certain Categories of Issuers From the Exchange's Annual Meeting Requirement).

[77] Exchange Rule 14.11(e)(2)(A) states that ''while Equity Gold Shares are not technically Index Fund Shares and thus not are not covered by 14.11(c), all other rules that reference ''Index Fund Shares'' shall also apply to Equity Gold Shares.''

[78] Nasdaq Listing Rule 5615(a)(6) and Arca Rule 5.3–E. *See also* Securities Exchange Act No. 86072 (June 10, 2019) 84 FR 27816 (June 14, 2019) (SR–NASDAQ–2019–039) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Nasdaq Rule 5615 To Allow Additional Issuers Who List Only Specific Securities To Be Able To Avail Themselves of Certain Exemptions Under Corporate Governance Requirements and To Amend Nasdaq Rule IM–5620 To Exclude Additional Categories of Issuers Listing Only Specific Securities From the Annual Shareholder Meeting Requirement); Securities Exchange Act No. 83324 (May 24, 2018) 83 FR 25076 (May 31, 2018) (SR–NYSEArca–2018–31) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend NYSE Arca Rule 5.3–E To Exclude Certain Categories of Issuers From the Exchange's Annual Meeting Requirement).

[79] *Id.*

[80] *Id.*

investment vehicles that hold a beneficial interest in a specified partnership that is not managed like a corporation and does not have a board of directors. In addition, the Exchange believes Partnership Units should not be subject to the annual meeting requirements of Exchange Rule 14.10(f) because holders have limited voting rights and the general partner oversees the operation of the partnership. The Exchange notes that these issuers may still be required to hold shareholder meetings, including special meetings, as required by federal or state law or their governing documents. The Exchange notes that Partnership Units are already similarly exempted from the same corporate governance requirements on other exchanges.[81]

Trust Issued Receipts

The Exchange believes it is appropriate that Trust Issued Receipts are included in the Proposed Definition and, therefore, entitled to the exemptions proposed herein because Trust Issued Receipts are passive investment vehicles that hold a beneficial interest in a specified partnership that is not managed like a corporation and does not have a board of directors. In addition, the Exchange believes that Trust Issued Receipts should not be subject to the annual meeting requirements of Exchange Rule 14.10(f) because these securities are currently exempt from this rule.[82] The Exchange notes that Trust Issued Receipts are already similarly exempted from the same corporate governance requirements on other exchanges.[83]

Managed Fund Shares and ETF Shares

The Exchange believes it is appropriate that Managed Fund Shares and ETF Shares are included in the Proposed Definition and, therefore, entitled to the exemptions proposed herein because they currently exempt from the provisions of Exchange Rule 14.10(c)(2) (Independent Directors), Exchange Rule 14.10(c)(4) (Independent Director Oversight of Executive Officer Compensation), Exchange Rule 14.10(c)(5) (Independent Director Oversight of Director Nominations), and Exchange Rule 14.10(d) (Code of Conduct).[84] In addition, the Exchange believes that it is appropriate to exempt Managed Fund Shares and ETF Shares from the annual meeting requirements of Exchange Rule 14.10(f) because like Index Fund Shares (which are currently provided an exemption from the annual meeting) the aforementioned securities are issued by an open-end investment company registered under the 1940 Act that are available for creation and redemption on a continuous basis, and require dissemination of an intraday portfolio value. These requirements provide important investor protections and ensure that the net asset value and the market price remain closely tied to one another while maintaining a liquid market for the security. These protections, along with the disclosure documents regularly received by investors, allow shareholders of Managed Fund Shares and ETF Shares to value their holdings on an ongoing basis and lessen the need for shareholders to directly deal with management at an annual meeting. Therefore, the Exchange further believes it is appropriate that these be afforded the proposed exemptions to the annual meeting requirements. The Exchange notes that these issuers may still be required to hold shareholder meetings, including special meetings, as required by federal or state law or their governing documents. The Exchange notes that Managed Fund Shares and ETF Shares are already similarly exempted from the same corporate governance requirements on other exchanges.[85]

Managed Portfolio Shares and Tracking Fund Shares

The Exchange believes it is appropriate that Managed Portfolio Shares and Tracking Fund Shares are included in the Proposed Definition and, therefore, entitled to the exemptions proposed herein because it is currently exempt from certain provisions of Rule 14.10.[86] In addition, the Exchange believes that it is appropriate to exempt Managed Portfolio Shares and Tracking Fund Shares from the annual meeting requirements of Exchange Rule 14.10(f) because like Index Fund Shares (which are currently provided an exemption from the annual meeting) the aforementioned securities are issued by an open-end investment company registered under the 1940 Act that are available for creation and redemption on a continuous basis, and require dissemination of an intraday portfolio value. These requirements provide important investor protections and ensure that the net asset value and the market price remain closely tied to one another while maintaining a liquid market for the security. These protections, along with the disclosure documents regularly received by investors, allow shareholders of Managed Portfolio Shares and Tracking Fund Shares to value their holdings on an ongoing basis and lessen the need for shareholders to directly deal with management at an annual meeting. Therefore, the Exchange further believes it is appropriate that these be afforded the proposed exemptions to the annual meeting requirements. The Exchange notes that these issuers may still be required to hold shareholder meetings, including special meetings, as required by federal or state law or their governing documents. The Exchange also notes that Managed Portfolio Shares and Tracking Fund Shares are already similarly exempted from the same corporate governance requirements on another exchange.[87]

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[81] *Id.*

[82] *See* Exchange Rule 14.10 Interpretation and Policy .15.

[83] Nasdaq Listing Rule 5615(a)(6) and Arca Rule 5.3–E. *See also* Securities Exchange Act No. 86072 (June 10, 2019) 84 FR 27816 (June 14, 2019) (SR–NASDAQ–2019–039) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Nasdaq Rule 5615 To Allow Additional Issuers Who List Only Specific Securities To Be Able To Avail Themselves of Certain Exemptions Under Corporate Governance Requirements and To Amend Nasdaq Rule IM–5620 To Exclude Additional Categories of Issuers Listing Only Specific Securities From the Annual Shareholder Meeting Requirement); Securities Exchange Act No. 83324 (May 24, 2018) 83 FR 25076 (May 31, 2018) (SR–NYSEArca–2018–31) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend NYSE Arca Rule 5.3–E To Exclude Certain Categories of Issuers From the Exchange's Annual Meeting Requirement).

[84] *See* Exchange Rule 14.10(e)(1)(E).

[85] Nasdaq Listing Rule 5615(a)(6) and Arca Rule 5.3–E. *See also* Securities Exchange Act Nos. 86072 (June 10, 2019) 84 FR 27816 (June 14, 2019) (SR–NASDAQ–2019–039) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Nasdaq Rule 5615 To Allow Additional Issuers Who List Only Specific Securities To Be Able To Avail Themselves of Certain Exemptions Under Corporate Governance Requirements and To Amend Nasdaq Rule IM–5620 To Exclude Additional Categories of Issuers Listing Only Specific Securities From the Annual Shareholder Meeting Requirement); 83324 (May 24, 2018) 83 FR 25076 (May 31, 2018) (SR–NYSEArca–2018–31) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend NYSE Arca Rule 5.3–E To Exclude Certain Categories of Issuers From the Exchange's Annual Meeting Requirement); 88561 (April 3, 2020) 85 FR 19984 (April 9, 2020) (SR–NASDAQ–2019–090) (Notice of Filing of Amendment No. 4 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 4, To Adopt Nasdaq Rule 5704 Governing the Listing and Trading of Exchange Traded Fund Shares); and 88625 (April 13, 2020) 85 FR 21479 (April 17, 2020) (SR–NYSEArca–2019–81) (Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 2, to Adopt NYSE Arca Rule 5.2–E(j)(8) Governing the Listing and Trading of Exchange-Traded Fund Shares).

[86] *See* Exchange Rule 14.10(e)(1)(E).

[87] *See* Nasdaq Rule 5615(6)(B). *See also* Securities Exchange Act No. 93467 (October 29, 2021) 86 FR 60930 (November 4, 2021) (SR–NASDAQ–2021–083) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Exempt Certain Categories of Investment Companies Registered Under the Investment Company Act of 1940 From the Requirements To Obtain Shareholder Approval Prior to the Issuance of Securities in Connection

Managed Trust Securities

The Exchange believes that it is appropriate to exempt Managed Trust Securities from the annual meeting requirements of Exchange Rule 14.10(f) because like Index Fund Shares (which are currently provided an exemption from the annual meeting) the aforementioned securities are issued by an open-end investment company registered under the 1940 Act that are available for creation and redemption on a continuous basis and require dissemination of an intraday portfolio value. These requirements provide important investor protections and ensure that the net asset value and the market price remain closely tied to one another while maintaining a liquid market for the security. These protections, along with the disclosure documents regularly received by investors, allow shareholders of Managed Trust Securities to value their holdings on an ongoing basis and lessen the need for shareholders to directly deal with management at an annual meeting. Therefore, the Exchange further believes it is appropriate that these be afforded the proposed exemptions to the annual meeting requirements. The Exchange notes that these issuers may still be required to hold shareholder meetings, including special meetings, as required by federal or state law or their governing documents. The Exchange also notes that Managed Trust Securities are already similarly exempted from the same corporate governance requirements on other exchanges.[88]

(6) Definition of ''Family Member''

The Exchange is proposing to modify the definition of ''Family Member'' for purposes of director independence under Rule 14.10(c)(1)(B) to mean a person's spouse, parents, children, siblings, mothers and fathers-in-law, sons and daughters-in-law, brothers and sisters-in-law, and anyone (other than domestic employees) who shares such person's home. The purpose of this rule change is to exclude domestic employees who share the director's home, and stepchildren who do not share the director's home, from the type of relationships that always preclude a board from finding that a director is independent, as described below. The proposed definition is substantively similar to a proposal that has been considered and approved by the Commission.[89]

Rule 14.10(c)(1)(B) provides a list of certain relationships that preclude a board from finding that a director is independent (the ''Bright-Line Independence Test''). These objective measures provide transparency to investors and companies, facilitate uniform application of the rules, and ease administration. The Exchange's Rules preclude a director from being considered independent if the director has a family member who, among other things, (i) accepted any compensation from the Company in excess of $120,000 during any period of twelve consecutive months within the three years preceding the determination of independence (with certain exceptions);[90] (ii) is, or at any time during the past three years was, employed by the company as an Executive Officer;[91] (iii) is a partner in, or a controlling Shareholder or an Executive Officer of, any organization to which the Company made, or from which the Company received, payments for property or services in the current or any of the past three fiscal years that exceed 5% of the recipient's consolidated gross revenues for that year, or $200,000, whichever is more (with certain exceptions);[92] (iv) is employed as an Executive Officer of another entity where at any time during the past three years any of the Executive Officers of the Company served on the compensation committee of such other entity;[93] or (v) is a current partner of the Company's outside auditor, or was a partner or employee of the Company's outside auditor who worked on the Company's audit at any time during any of the past three years.[94]

Currently, for purposes of the Exchange's Rules, Family Member means a person's spouse, parents, children and siblings, whether by blood, marriage or adoption, or anyone residing in such person's home.[95] This definition includes stepchildren, as they are ''children by . . . marriage.''

As noted above, the Exchange proposes to define a Family Member to mean a person's spouse, parents, children, siblings, mothers and fathers-in-law, sons and daughters-in-law, brothers and sisters-in-law, and anyone (other than domestic employees) who shares such person's home. The Exchange also proposes to interpret the term ''children'' to exclude stepchildren except that a relationship with a stepchild who shares a home with the director would continue to fall under the Bright-line Independence Test because the definition of a Family Member will include anyone (other than domestic employees) who shares the director's home. To comply with the Exchange's rules, it will expect the Boards of its listed companies to continue to elicit through director questionnaires the information necessary to make independence determinations, which will need to include questions about stepchild relationships. As noted in the order approving a substantively similar rule, the Commission stated that it ''believes that this should help to ensure that listed companies inquire about stepchild relationships so that such companies can discern the essential facts and circumstances to be able to make the affirmative findings necessary under Nasdaq rules to determine a director is independent.'' [96]

The Exchange has concluded that inclusion of stepchildren in the definition of a Family Member makes the definition over-inclusive. The Bright-line Independence Test is intended to identify relationships that are likely to interfere with the exercise of independent judgment in carrying out the director's responsibilities. In that regard the Exchange believes that a director's relationship with their stepchildren may or may not interfere

With Acquisitions of the Stock or Assets of an Affiliated Registered Investment Company Under Certain Conditions).

[88] *See* Nasdaq Listing Rule 5615(a)(6)(B). *See also* Securities Exchange Act No. 86072 (June 10, 2019) 84 FR 27816 (June 14, 2019) (SR–NASDAQ–2019–039) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Nasdaq Rule 5615 To Allow Additional Issuers Who List Only Specific Securities To Be Able To Avail Themselves of Certain Exemptions Under Corporate Governance Requirements and To Amend Nasdaq Rule IM–5620 To Exclude Additional Categories of Issuers Listing Only Specific Securities From the Annual Shareholder Meeting Requirement); Securities Exchange Act No. 83324 (May 24, 2018) 83 FR 25076 (May 31, 2018) (SR–NYSEArca–2018–31) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend NYSE Arca Rule 5.3–E To Exclude Certain Categories of Issuers From the Exchange's Annual Meeting Requirement).

[89] *See* Nasdaq Listing Rule 5605(a)(2). *See also* Securities and Exchange Act Nos. 86095 (June 12, 2019) 84 FR 28379 (June 18, 2019) (SR–NASDAQ–2019–049) (Notice of Filing of Proposed Rule Change To Amend the Definition of Family Member in Listing Rule 5605(a)(2) for Purposes of the Definition of Independent Director); and 88210 (February 13, 2020) 52 FR 9816 (February 20, 2020) (Notice of Filing of Amendment No. 3 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 3, To Amend the Definition of Family Member in Listing Rule 5605(a)(2) for Purposes of the Definition of Independent Director).

[90] Rule 14.10(c)(1)(B)(ii).

[91] Rule 14.10(c)(1)(B)(iii).

[92] Rule 14.10(c)(1)(B)(iv).

[93] Rule 14.10(c)(1)(B)(v).

[94] Rule 14.10(c)(1)(B)(vi).

[95] Rule 14.10(c)(1)(B)

[96] *See* Securities Exchange Act No. 88210 (February 13, 2020) 52 FR 9816 (February 20, 2020) (Notice of Filing of Amendment No. 3 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 3, To Amend the Definition of Family Member in Listing Rule 5605(a)(2) for Purposes of the Definition of Independent Director).

with the director's exercise of independent judgment based on the particular facts and circumstances of the situation. If a stepchild has been a dependent of a director or was a part of the director's household since being a minor, the director's relationship with that stepchild is likely to be similar to that with a biological child. However, the Exchange believes if the director marries a person who has an adult child, the director never acted in any capacity as a parent of this stepchild, and the stepchild never shared the director's household, then the director and stepchild are likely to have an attenuated relationship that is unlike the relationship of a parent and child. Because the determination as to whether such relationship is likely to interfere with the exercise of independent judgment in carrying out the director's responsibilities is based on facts and circumstances, the Exchange believes a company's board is in the best position to make such a determination. Accordingly, the Exchange believes that a stepchild relationship should not preclude a director from being considered independent in all circumstances. Notwithstanding, if a stepchild shares a home with the director, such a relationship would continue to fall under the Bright-line Independence Test because the definition of a Family Member will include anyone (other than domestic employees) who shares the director's home.

In addition, the Exchange believes that the proposed change would align the language in its definition of a Family Member with the comparable definition of a Family Member or an immediate family member of the Nasdaq.[97] When each market has a different definition, it complicates the preparation by listed companies of director and officer questionnaires that the companies need in order to analyze director independence. In particular, this creates an added and unnecessary burden when a company transfers its listing from one national securities exchange to another. In such case, a director may have already filled out an annual questionnaire based on the prior listing exchange's definition of a family member but need to answer additional questions because the definition of the exchange the listing is transferred to is phrased differently.

The Exchange is also proposing to modify the definition of a ''Family Member'' for purposes of director independence under Rule 14.10(c)(1)(B) to exclude domestic employees who share a director's home. The Exchange believes that the definition of a Family Member should not include a domestic employee who shares a director's home because this definition is not intended to capture commercial relationships.

Accordingly, as described above the Exchange is proposing to modify the definition of a Family Member for purposes of director independence under Rule 14.10(c)(1)(B) to mean a person's spouse, parents, children, siblings, mothers and fathers-in-law, sons and daughters-in-law, brothers and sisters-in-law, and anyone (other than domestic employees) who shares such person's home. This definition is identical to the Nasdaq definition of a Family Member.[98]

Additionally, the Exchange notes that the proposed rule change to Rule 14.10(c)(1)(B) will not affect the additional independence criteria for audit committee members set forth in Rule 14.10(c)(3), which incorporate the independence requirements of SEC Rule 10A–3.[99] Thus, the broader exclusion from the definition of Family Member, as it applies to minor stepchildren not sharing the director's home, may not be applied for purposes of determining the independence of audit committee members, where the stricter standards of Rule 10A–3, as well as Exchange Rule 14.10(c)(3), still apply.[100]

Notwithstanding these changes, the Exchange notes that a company's board must, under 14.10(c)(3)(B) and Interpretation and Policy .05, affirmatively determine that no relationship exists that would interfere with the exercise of independent judgment in carrying out the director's responsibilities. To comply with the Exchange's rules, the Exchange will expect listed companies' boards to continue to elicit through director and officer questionnaires the information necessary for the boards to make such determinations, which will need to include questions about stepchild relationships. The Exchange believes that it is appropriate for the board to review a relationship between a director and a stepchild who does not share a home with the director or a relationship between a director and a domestic employee under such facts and circumstances test.

(7) Quorum Requirement

The Exchange is proposing to modify Exchange Rules 14.10(e)(1)(D)(iv) and 14.10(f)(3)(ii) (the ''Quorum Rules'') to allow the Exchange to accept a quorum less than 33⅓% of the outstanding shares of a company's common voting stock where the Company is incorporated outside of the U.S. and such Company's home country law prohibits the company from establishing a quorum that satisfies the Quorum Rules. The Exchange notes that these proposed rules are substantively similar to existing rules of another exchange.[101]

Exchange Rule 14.10(f)(3) establishes quorum requirements for an annual meeting of shareholders for Exchange Companies listing common stock or voting preferred stock, and their equivalents.[102] Under this rule, each company that is not a limited partnership must provide for a quorum as specified in its by-laws for any meeting of the holders of common stock; provided, however, that in no case shall such quorum be less than 33⅓% of the outstanding shares of the company's common voting stock (the ''Exchange Quorum Requirement''). The Exchange notes that domestic listed companies are subject to quorum requirements under the laws of their states of incorporation.[103]

Now, the Exchange proposes to modify the Exchange Quorum Requirement to allow the Exchange to accept any quorum requirement for a non-U.S. company if such company's home country law mandates such quorum for the shareholders' meeting and prohibits the company from establishing the higher quorum required

[97] *See* Nasdaq Listing Rule 5605(a)(2).

[98] *Id.*

[99] Rule 14.10(c)(3)(B) requires that each Company must have, and certify that it has and will continue to have, an audit committee of at least three members, each of whom must, among other requirements, meet the criteria for independence set forth in Rule 10A–3(b)(1) under the Act, in addition to the requirements of Rule 14.10(c)(3)(B). *See also* Exchange Rule 14.10 Interpretation and Policy .05 (Audit Committee Composition).

[100] *See* Securities Exchange Act No. 88210 (February 13, 2020) 52 FR 9816 (February 20, 2020) (Notice of Filing of Amendment No. 3 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 3, To Amend the Definition of Family Member in Listing Rule 5605(a)(2) for Purposes of the Definition of Independent Director).

[101] *See* Nasdaq Listing Rules 5615(a)(4)(E) and 5620(c). *See* Securities and Exchange Act Nos. 90883 (January 11, 2021) 86 FR 4158 (January 15, 2021) (SR–NASDAQ–2020–100) (Notice of Filing of Proposed Rule Change To Modify the Quorum Requirement for Non-U.S. Companies Under Certain Limited Circumstances); and 91567 (April 14, 2021) 86 FR 20556 (April 20, 2021) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Modify the Quorum Requirement).

[102] *See* Exchange Rule 14.10(f)(1).

[103] For example, Delaware allows companies to establish their own quorum requirements in their certificates of incorporation or bylaws, provided that the quorum must be at least one-third of the shares entitled to vote on the matter. In the absence of a quorum provision in the company's certificate of incorporation or bylaws, Delaware requires a quorum of 50% of the shares entitled to vote on the matter. See Del. Code Sec. 216.

by the Exchange Quorum Requirement. The Exchange proposes to require that a company relying on this provision shall submit to the Exchange a written statement from an independent counsel in such company's home country describing the home country law that conflicts with the Exchange quorum requirement. The Exchange also proposes to require such counsel to certify that, as the result of the conflict with the home country law, the company is prohibited from complying with the Exchange Quorum Requirement, and the company cannot obtain an exemption or waiver from that law. Finally, to assure appropriate disclosure, the Exchange proposes to require that any company relying on this exception from the Exchange Quorum Requirement must make a public announcement as promptly as possible but not more than four business days following the submission of the independent counsel's statement to the Exchange, as described above, on or through the Company's website and either by filing a Form 8–K, where required by SEC rules, or by issuing a press release explaining the Company's reliance on the exception.[104]

In addition, to help assure continuous transparency, the Exchange proposes to require that such website disclosure is maintained for the period of time the company continues to rely on the exception from the quorum requirements. Finally, to help assure the exception remains appropriate, the Exchange proposes to require the company to update the website disclosure at least annually to indicate that the company continues to be prohibited under its home country law from complying with the Exchange's quorum requirements as of the date of such update.[105]

The Exchange also proposes to modify Exchange Rule 14.10(e)(1)(D)(iv) governing the quorum requirements for limited partnerships listed on the Exchange to also reflect this change to the Exchange Quorum Requirement.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[106] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[107] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[108] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

(1) Compensation-Related Listing Rules

The proposal first requires that the compensation of Executive Officers must be determined by a compensation committee and eliminates the existing Alternative for such compensation. Although the Alternative to a formal committee in the Exchange's current rules may be useful to a small number of prospective companies, the Exchange believes that the heightened importance of compensation decisions and oversight of executive compensation in today's environment, as well as the benefits that can result for investors of having a standing committee overseeing compensation matters, makes it appropriate and consistent with investor protection and the public interest under Section 6(b)(5) of the Act for the Exchange to raise its standards in this regard.[109] In the Commission's approval order for a similar proposed rule change to Nasdaq rules, the Commission stated:

> In making this determination the Commission is aware that Rule 10C–1 does not require listed companies of national securities exchanges to have a committee dedicated to compensation matters. Nevertheless, it is consistent with Section 6(b)(5) of the Act for Nasdaq to require all its listed companies to have an independent compensation committee overseeing executive compensation matters because of the importance and accountability to investors that such a formal structure can provide. The Commission also notes that some of the other requirements of Rule 10C–1 apply only when a company has a committee overseeing compensation matters. Thus, the requirement to have a compensation committee will trigger the additional protections for shareholders created by these requirements.[110]

The Exchange also believes it is appropriate to raise its standards to require the compensation committee of each issuer to have at least two members, instead of permitting a sole individual to be responsible for compensation policy, and that this furthers investor protection and the public interest in accordance with Section 6(b)(5).[111] The Commission agreed in its approval of a substantively similar rule on Nasdaq when it stated:

> In light of the importance of compensation matters, the added thought and objectivity that is likely to result when two or more individuals deliberate over how much a listed company should pay its executives, and what form such compensation should take, is consistent with the goal of promoting more accountability to shareholders on executive compensation matters. Moreover, given the complexity of executive compensation packages for corporate executives, it is reasonable for Nasdaq to require listed companies to have the input of more than one committee member on such matters.[112]

Moreover, no Companies currently listed on the Exchange has a compensation committee of only one member. Therefore, the two-member requirement will not be an onerous burden for Companies listed on the Exchange and should strength their review of compensation matters.

The Exchange's proposal to require a compensation committee to have a written charter detailing the committee's authority and responsibility is also consistent with Section 6(b)(5) of the Act and will provide added transparency for shareholders regarding how a company determines compensation and may clarify and improved the process itself. In an approval order for a substantively similar rule on Nasdaq, the Commission stated that ''the requirement that listed companies review and reassess the adequacy of the compensation's

[104] *See* Nasdaq Listing Rules 5615(a)(4)(E) and 5620(c). *See* Securities and Exchange Act Nos. 90883 (January 11, 2021) 86 FR 4158 (January 15, 2021) (SR–NASDAQ–2020–100) (Notice of Filing of Proposed Rule Change To Modify the Quorum Requirement for Non-U.S. Companies Under Certain Limited Circumstances); and 91567 (April 14, 2021) 86 FR 20556 (April 20, 2021) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Modify the Quorum Requirement).

[105] *Id.*

[106] 15 U.S.C. 78f(b).

[107] 15 U.S.C. 78f(b)(5).

[108] *Id.*

[109] *See* Securities Exchange Act Nos. 68013 (October 9, 2012) 77 FR 62563 (October 15, 2012) (SR–NASDAQ–2012–109) (Notice of Filing of Proposed Rule Change To Modify the Listing Rules for Compensation Committees To Comply With Rule 10C–1 Under the Exchange Act and Make Other Related Changes) 68640 (January 11, 2013) 78 FR 4554 (January 22, 2013) (Order Granting Accelerated Approval of Proposed Rule Change as Modified by Amendment Nos. 1 and 2 To Amend the Listing Rules for Compensation Committees To Comply With Rule 10C–1 Under the Act and Make Other Related Changes).

[110] *Id.*

[111] *Id.*

[112] *Id.*

committee charter on an annual basis will also help to ensure accountability and transparency on an on-going basis.'' [113]

The Exchange believes that the proposed ''Exceptional and Limited Circumstances'' provision, which allows one director who fails to meet the Exchange's Independent Director definition to serve on a compensation committee under certain conditions, is an appropriate means to allow Companies flexibility as to board and committee membership and composition in unusual circumstances, which may be particularly important for smaller Companies. Further, the Commission long ago approved as consistent with the Act the same exception and concept in the context of the Exchange's Independent Director under Exchange Rule 14.10(c)(1)(B), with respect to nominations committees and audit committees, and approved a substantively similar provision on another exchange.[114]

The Exchange believes the proposal to provide under proposed Rule 14.10(c)(4)(D), that for purposes of this Rule, the compensation committee is not required to conduct an independence assessment for a compensation adviser that acts in a role limited to certain activities provided under Item 407(e)(3)(iii) of Regulation S–K will add clarity to the Exchange's rules.

The Exchange believes its proposal to prohibit a director who receives compensation or fees from a listed company (other than, among other things, director compensation) from serving on the Company's compensation committee will protect investors and the public interest. Specifically, a director's receipt of compensatory fees from a company (other than compensation for board and board committee service or compensation under a retirement plan or prior service with the company as described above) could render the member unwilling or unable to provide a truly independent voice on executive compensation decisions. The Exchange believes the restriction is warranted given the heightened importance of executive compensation decisions in today's business environment. Moreover, in its approval order of a similar Nasdaq proposal,[115] the Commission stated that it believes the restriction will ''help to ensure that compensation committee members cannot receive directly or indirectly fees that could potentially influence their decisions on compensation matters.''

The Exchange believes its proposal to move Rule 14.10(e)(1)(F) to proposed Rule 14.10(c)(4)(F) and to clarify the specific provisions under which a Smaller Reporting Company is exempt from the requirements of Rule 14.10(c) will provide additional clarity to the Exchange's rulebook. As discussed above, Smaller Reporting Companies will continue to be subject to the same requirements as all other Companies, except the requirements relating to compensatory fees, affiliation and the specific compensation committee responsibilities and authority set forth in proposed Exchange Rule 14.10(c)(4)(C)(iv). The Exchange believes that this hybrid approach does not discriminate unfairly between issuers because it recognizes the fact that the '' 'executive compensation arrangements of [Smaller Reporting Companies] generally are so much less complex than those of other public companies that they do not warrant the more extensive disclosure requirements imposed on companies that are not [Smaller Reporting Companies] and related regulatory burdens that could be disproportionate for [Smaller Reporting Companies].' '' [116] In addition, the Exchange notes that the Commission exempted Smaller Reporting Companies from Rule 10C–1.[117] As a result, this distinction does not discriminate unfairly among issuers.

Finally, the Exchange believes the proposed non-substantive ministerial changes to the language of Rule 14.10(c) will add clarity to the Exchange's rulebook.

As noted above, all of the proposed changes to the Exchange's compensation committee requirements are substantively similar to proposed rules already considered and approved by the Commission.[118]

(2) Direct Registration Program

The proposed rule change as it pertains to the Exchange's DRP is consistent with the investor protection objectives of the Act in that it will provide a very limited exemption to the Exchange's DRP eligibility requirements for foreign issuers that provide a letter from home country counsel certifying that compliance with that requirement is prohibited by home country law or regulation. Further, the proposed rule change should facilitate cooperation and coordination among clearing agencies, transfer agents, and broker-dealers by explaining the basis upon which certain foreign issuers are not required to participate in the DRP. This, in turn, should facilitate better efficiency in the clearance and settlement of securities transactions involving the securities of these foreign issuers and should facilitate better efficiency in the transfer of such securities. The Exchange notes that its proposal is substantively similar to proposed amendments Nasdaq made to its Rules 5210(c) and 5255(c),[119] and thus raises no novel issues.

(3) Public Disclosure

The proposal to require an additional public disclosure accomplishes the objectives of the Act by enhancing transparency around third party compensation and payments made in connection with board service. The Exchange believes such disclosure has several benefits. First, it would provide information to investors to help them make meaningful investing and voting decisions. It would also address potential concerns that undisclosed third-party compensation arrangements may lead to conflicts of interest among directors and call into question their ability to satisfy fiduciary duties. In an approval for a substantively similar proposed rule change on another exchange, the Commission stated ''to the extent that [the proposal] would, in certain situations, provide investors and market participants additional information to make informed investment and voting decisions, we believe it is consistent with the requirements of Section 6(b)(5) of the Act.'' [120]

[113] *Id.*

[114] *Id.*

[115] *Id.*

[116] *See* Securities Exchange Act Release No. 67220 (June 20, 2012), 77 FR 38422, 38425 (June 27, 2012), at 38438 (quoting Securities Exchange Act Release No. 54302A (August 29, 2006), 71 FR 53158, 53192 (September 8, 2006)).

[117] *See* 17 CFR 240.10C–1(b)(5)(ii).

[118] *See* Securities Exchange Act Nos. 68013 (October 9, 2012) 77 FR 62563 (October 15, 2012) (SR–NASDAQ–2012–109) (Notice of Filing of Proposed Rule Change To Modify the Listing Rules for Compensation Committees To Comply With Rule 10C–1 Under the Exchange Act and Make Other Related Changes) 68640 (January 11, 2013) 78 FR 4554 (January 22, 2013) (Order Granting Accelerated Approval of Proposed Rule Change as Modified by Amendment Nos. 1 and 2 To Amend the Listing Rules for Compensation Committees To Comply With Rule 10C–1 Under the Act and Make Other Related Changes).

[119] *See* Securities and Exchange Act Release No. 68238 (November 15, 2012) 77 FR 69911 (November 21, 2012) (SR–NASDAQ–2012–128) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Expand the Exemption to the Direct Registration Program Requirement to All Foreign Issuers Rather Than Only Foreign Private Issuers).

[120] *See* Securities and Exchange Act Nos. 77481 (March 30, 2016) 81 FR 19678 (April 5, 2016) (SR–NASDAQ–2016–013) (Notice of Filing of Proposed Rule Change To Require Listed Companies to Publicly Disclose Compensation or Other Payments by Third Parties to Board of Director's Members or Nominees); 78223 (July 1, 2016) 81 FR 44400 (July 7, 2016) (Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 2, To

While there may be some overlap in the proposed disclosure requirement with existing Commission disclosure requirements, it is not unusual for a national securities exchange to adopt disclosure requirements in their listing rules that supplement or overlap with disclosure requirements otherwise imposed under federal securities laws. Such disclosure-related listing standards ''help to ensure that listed companies maintain compliance with the disclosure requirements under the federal securities laws and contribute to the maintenance of fair and orderly markets by providing investors with material and current information necessary for informed investment and voting decisions.'' [121] Further, as the proposed public disclosure requirement is substantively similar to a proposal already considered and approved by the Commission, it raises no novel issues.[122]

(4) Market Value Definition and Shareholder Approval

The Exchange believes that the proposal to modify the measure of market value for the purpose of Rule 14.10(i)(4) from the closing bid price to the lower of: (i) the closing price (as reflected on *Cboe.com*); or (ii) the average closing price of the common stock (as reflected on *Cboe.com*) for the five trading days immediately preceding the signing of the binding agreement will perfect the mechanism of a free and open market and protect investors and the public interest. Furthermore, the proposal is substantively similar to a proposed rule that was previously approved by the Commission.[123]

First, the Exchange believes using the proposed method for determining the market value has the potential to provide a better indication of the actual market value than the current use of closing bid price under certain market conditions. The Exchange also believes that the BZX Official Closing Price is less prone to manipulation than are bid prices. In addition, the Exchange believes the proposal to use the BZX Official Closing Price for purposes of market value should help to ensure transparency to investors in calculating market value for purposes of the proposed rule.

Second, allowing share issuances to be priced at the five-day average of the closing price will further align the Exchange's requirements with how many transactions are structured, such as transactions where Exchange Rule 14.10(i) is not implicated because the issuance is for less than 20% of the common stock and the parties rely on the five-day average for pricing to smooth out unusual fluctuations in price. In so doing, the proposed rule change will perfect the mechanism of a free and open market. Further, allowing a five-day average price continues to protect investors and the public interest because it will allow companies and investors to price transactions in a manner designed to eliminate aberrant pricing resulting from unusual transactions on the day of a transaction. Maintaining the allowable average at just a five-day period also protects investors by ensuring the period is not too long, such that it would result in the price being distorted by ordinary past market movements and other outdated events. In a market that rises each day of the period, the five-day average will be less than the price at the end of the period, but would still be higher than the price at the start of such period. The Exchange believes that where two alternative measures of value exist that both reasonably approximate the value of listed securities, defining the Minimum Price as the lower of those values allows issuers the flexibility to use either measure because they can also sell securities at a price greater than the Minimum Price without needing shareholder approval. This flexibility, and the certainty that a transaction can be structured at either value in a manner that will not require shareholder approval, further perfects the mechanism of a free and open market without diminishing the existing investor protections of the 14.10(i).

The Exchange also believes that eliminating the requirement for shareholder approval of issuances at a price less than book value but greater than market value does not diminish the existing investor protections of Exchange Rule 14.10(i)(4). Book value is primarily an accounting measure calculated based on historic cost and is generally perceived as an inappropriate measure of the current value of a stock. Because book value is not an appropriate measure of the current value of a stock, the elimination of the requirement for shareholder approval of issuances at a price less than book value but greater than market value will remove an impediment to, and perfect the mechanism of, a free and open market, which currently unfairly burdens companies in certain industries, without meaningfully diminishing investor protections of Exchange Rule 14.10(i)(4).

The Exchange also believes that amending the title of 14.10(i)(4) and the preamble to replace references to ''private placements'' to ''transactions other than public offerings'' to conform the language in the title of 14.10(i)(4) and the preamble to the language in the rule text and that of Rule 14.10 Interpretation and Policy .18, which provides the definition of a public offering, will perfect the mechanism of a free and open market by making the rule easier to understand and apply. Private placements would continue to be considered ''transactions other than public offerings'' under the proposed rule change, and the proposed change does not change the essence of the current rule.

The Exchange believes that amending Exchange Rule 14.10 Interpretation and Policy .18 and .19, which describe how the Exchange applies the shareholder approval requirements, to conform references to book and market value with the new definition of Minimum Price, as described above, and to utilize the newly defined term 20% Issuance will perfect the mechanism of a free and open market by eliminating confusion caused by references to a measure that is no longer applicable and by making the rule easier to understand and apply.

(5) Exemptions to Certain Corporate Governance Requirements

The Exchange believes that the proposed amendments to modify and expand the exemptions available to issuers of certain securities from some of the Exchange's corporate governance requirements are consistent with the protection of investors. The Exchange believes that the proposed exemptions for issuers of only non-voting preferred

Require Listed Companies to Publicly Disclose Compensation or Other Payments by Third Parties to Board of Director's Members or Nominees).

[121] *Id.*

[122] *Id.*

[123] *See* Securities Exchange Act Nos. 82702 (February 13, 2018) 83 FR 7269 (February 20, 2018) (SR–NASDAQ–2018–008) (Notice of Filing of Proposed Rule Change To Modify the Listing Requirements Contained in Listing Rule 5635(d) To Change the Definition of Market Value for Purposes of the Shareholder Approval Rules and Eliminate the Requirement for Shareholder Approval of Issuances at a Price Less Than Book Value but Greater Than Market Value) and 84287 (September 26, 2018) 83 FR 49599 (October 2, 2018) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Modify the Listing Requirements Contained in Listing Rule 5635(d) To Change the Definition of Market Value for Purposes of the Shareholder Approval Rule and Eliminate the Requirement for Shareholder Approval of Issuances at a Price Less Than Book Value but Greater Than Market Value). *See also* Securities Exchange Act No. 88056 (January 28, 2020) 85 FR 6003 (February 3, 2020) (SR–NASDAQ–2020–004) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Clarify the Term ''Closing Price'' in Rule 5635(d)(1)(A) Relating to Shareholder Approval for Transactions Other Than Public Offerings).

stock, debt securities and Derivative Securities are consistent with the protection of investors, as the holders of these securities do not have voting rights with respect to the election of directors, except in very limited circumstances, as required by state or federal law or their governing documents. Moreover, such securities are generally issued by an entity that is either (i) structured solely as vehicles for the issuance of non-voting or derivative securities, or (ii) issued by an operating company primarily listed on a national securities exchange and therefore subject to the full corporate governance and annual meeting requirements of that exchange.

Additionally, the net asset value of Derivative Securities that the Exchange proposes to exclude from its annual meeting requirement is determined by the market price of each fund's underlying securities or other reference asset. Shareholders of such securities products listed on the Exchange receive regular disclosure documents describing the pricing mechanism for their securities and detailing how they can value their holdings. Accordingly, holders of such securities can value their investment on an ongoing basis. Because of these factors, the Exchange believes there is a reduced need for shareholders to engage with management of issuers of these securities and thus no need for the issuers of such securities to hold annual shareholder meetings absent the existence of other listed securities with director election voting rights. Further, although the Exchange proposes to exclude issuers of such securities from holding an annual meeting, such issuers may still be required to hold special meetings as required by state or federal law or their governing documents. The Exchange further notes that issuers of only non-voting preferred stock, debt securities and Derivative Securities are excluded from complying with substantially similar requirements on other national securities exchanges.[124]

An issuer that has non-voting preferred stock, debt securities and Derivative Securities listed on the Exchange that also lists the issuers common stock or voting preferred stock or their equivalent on the Exchange will be subject to all the requirements of Exchange Rule 14.10.

(6) Definition Family Member

The Exchange believes the proposal to modify the definition of Family Member as provided in Exchange Rule 14.10(c)(1)(B) will 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. In particular, the Exchange's rules currently prohibit a director from being deemed independent in certain circumstances by including director's stepchildren in the definition of a Family Member, as described in more detail above. The rule also includes a domestic employee who shares the director's home in the definition of a Family Member, even though the relationship between the director and such employee is commercial in nature.

Independent directors over time became a linchpin in the American corporate governance. It is important for investors to have confidence that individuals serving as independent directors do not have a relationship with the listed company that would impair their independence. As the importance of independent directors for listed companies increased, so did the directors' workload and the risk of litigation. In this environment, the Exchange believes that it is appropriate not to prohibit directors from being considered independent based on the aforementioned commercial or attenuated stepchild relationships, but instead allow the board to review such a relationship and determine whether a relationship exists that would interfere with the exercise of independent judgment in carrying out the director's responsibilities.

Additionally, the Exchange notes that the proposed rule change to Rule 14.10(c)(1)(B) will not affect the additional independence criteria for audit committee members set forth in Rule 14.10(c)(3), which incorporate the independence requirements of SEC Rule 10A–3.[125]

Following the proposed rule change, the Exchange's definition of Family Member will become identical with Nasdaq definition of a Family Member, which the Commission has previously approved.[126]

(7) Quorum

The Exchange believes that the proposed amendments to Exchange Rules 14.10(e)(1)(D)(iv) and 14.10(f)(3)(ii) are designed to protect interests and the public interest because the proposal would eliminate a conflict forcing a company to choose between following the Exchange's rules or the law in its home jurisdiction. Further, while the Exchange's Quorum Requirement would not apply, there would continue to be other protections for shareholders provided by the company's home country laws. The Exchange also believes the proposed amendments to Exchange Rules 14.10(e)(1)(D)(iv) and 14.10(f)(3)(ii) are designed to protect investors and the public interest because any company relying on the proposed exception from the Exchange's Quorum Requirement will be required to make public disclosure on or through the Company's website and either by filing a Form 8–K, where required by SEC rules, or by issuing a press release explaining the company's reliance on the exception.

The Exchange believes that the proposed requirement that such website disclosure is maintained for the period of time the company continues to rely on the exception from the quorum requirements is designed to protect investors and the public interest because such website disclosure would help assure continuous transparency. The Exchange also believes that the proposed requirement to update the website disclosure at least annually to indicate that the company continues to be prohibited under its home country law from complying with the Exchange's quorum requirements as of the date of such update is designed to protect investors and the public interest because such disclosure would help the Exchange assure that the exception remains appropriate.

The Exchange believes that the proposed amendments to correct grammatical errors or incorrect rule references will improve the readability and clarity of the Exchanges rulebook. The Exchange notes that the proposed changes to the Exchange's quorum requirements are substantively similar to existing rules on Nasdaq, and thus do not present any new or novel issues.[127]

[124] *See* Nasdaq Listing Rule 5615(a)(6) and Arca Rule 5.3–E.

[125] Rule 14.10(c)(3)(B) requires that each Company must have, and certify that it has and will continue to have, an audit committee of at least three members, each of whom must, among other requirements, meet the criteria for independence set forth in Rule 10A–3(b)(1) under the Act, in addition to the requirements of Rule 14.10(c)(3)(B). *See also* Exchange Rule 14.10 Interpretation and Policy .05 (Audit Committee Composition).

[126] *See* Nasdaq Listing Rule 5605(a)(2). *See also* Securities and Exchange Act Nos. 86095 (June 12, 2019) 84 FR 28379 (June 18, 2019) (SR–NASDAQ–2019–049) (Notice of Filing of Proposed Rule Change To Amend the Definition of Family Member in Listing Rule 5605(a)(2) for Purposes of the Definition of Independent Director); and 88210 (February 13, 2020) 52 FR 9816 (February 20, 2020) (Notice of Filing of Amendment No. 3 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 3, To Amend the Definition of Family Member in Listing Rule 5605(a)(2) for Purposes of the Definition of Independent Director).

[127] *See* Nasdaq Listing Rules 5615(a)(4)(E) and 5620(c). *See* Securities and Exchange Act Nos. 90883 (January 11, 2021) 86 FR 4158 (January 15, 2021) (SR–NASDAQ–2020–100) (Notice of Filing of

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes the proposed rule changes to conform certain applicable listing rules so that they are substantively similar to corresponding Nasdaq rules may enhance intermarket competition since the Exchange and Nasdaq will have substantially similar listing requirements for issuers.

Moreover, none of the proposed changes will unduly burden intra-market competition. Participants will experience no competitive impact from the proposed amendments as they are merely intended to the Exchange's corporate governance requirements so that they are substantively similar to those of other exchanges. Further, the Exchange anticipates that all issuers with Companies listed on the Exchange already comply with the proposed rules. Thus, the proposal will have no material impact to such issuers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [128] and subparagraph (f)(6) of Rule 19b–4 thereunder.[129]

A proposed rule change filed under Rule 19b–4(f)(6) [130] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[131] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay to allow the Exchange to implement the proposal as soon as possible. The Exchange states that the proposal is substantively similar or identical to Nasdaq listing rules series 5200 (General Procedures and Prerequisites for Initial and Continued Listing on the Nasdaq Stock Market), 5600 (Corporate Governance Requirements), and 5800 (Failure to Meeting Listing Standards). The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal does not raise any new or novel issues. The proposed changes have also previously been subject to notice and comment.[132] Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[133]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CboeBZX–2024–010 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–CboeBZX–2024–010. 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–CboeBZX–2024–010 and should be submitted on or before March 12, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[134]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–03336 Filed 2–16–24; 8:45 am]

BILLING CODE 8011–01–P

Proposed Rule Change To Modify the Quorum Requirement for Non-U.S. Companies Under Certain Limited Circumstances); and 91567 (April 14, 2021) 86 FR 20556 (April 20, 2021) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Modify the Quorum Requirement).

[128] 15 U.S.C. 78s(b)(3)(A)(iii).

[129] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[130] 17 CFR 240.19b–4(f)(6).

[131] 17 CFR 240.19b–4(f)(6)(iii).

[132] *See* Section II. A, *supra.* As described above, some of the proposed changes were also previously approved by the Commission.

[133] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[134] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 12329]

Exchange Visitor Program

ACTION: Notice of an arrangement through a Memorandum of

Understanding and waiver of certain regulatory requirements.

SUMMARY: In accordance with the requirements of the Exchange Visitor Program regulations, the Assistant Secretary for Educational and Cultural Affairs (ECA), U.S. Department of State, has waived certain regulatory provisions to establish an exchange of German principals to secondary schools overseen and financed by the government of the Federal Republic of Germany within the United States.

DATES: This action was effective on November 15, 2023.

FOR FURTHER INFORMATION CONTACT: Rebecca Pasini, Deputy Assistant Secretary for Private Sector Exchange at 2200 C Street NW, SA–5, 5th Floor, Washington, DC 20522 or via email at *JExchanges@state.gov* or by telephone at (202) 826–4364.

SUPPLEMENTARY INFORMATION: The arrangement between the United States and the Federal Republic of Germany, establishing an exchange of German principals, fosters long-term international cooperation with U.S. communities across the United States. German exchange principals, through their leadership, promote an intercultural environment and strong bonds that last through their students' years at school, university, and beyond. The principals are instrumental in creating a global network of well-connected German and American alumni.

This exchange has been established in accordance with the existing Exchange Visitor Program regulations (22 CFR part 62), including the regulations applying to the Specialist category (22 CFR 62.26). These exchange visitors are experts in a field with specialized knowledge or skills. Program participants are required to be German citizens, hold a valid German passport, and have teaching certification for the secondary level or an advanced degree equivalent to a Master's degree in school administration or a similar field. Program participants are selected by the Federal German Foreign Office and its subordinate authority, the Central Agency for Schools Abroad. Participants are placed as principals in German schools in the United States that are recognized and overseen by the Federal Foreign Office.

Consistent with the arrangement, the Assistant Secretary for Educational and Cultural Affairs waives certain provisions set forth in 22 CFR 62.26. Regulations at 22 CFR 62.26(i) provide that specialists shall be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete the program, which shall not exceed one year. Regulations at 22 CFR 62.26(d)(3) establish that a foreign national is eligible to participate in an exchange visitor program as a specialist if that individual does not fill a permanent or long-term position of employment while in the United States. Through the arrangement with the Federal Republic of Germany, the United States supports the purposes of the Fulbright-Hayes Act by facilitating administrative support for German schools in the United States and recognizing that international schools are an important way to allow the possibility of young people to be educated in a unique multicultural environment. The arrangement allows German principals to promote intercultural exchange throughout their program, which is permitted to be three years, subject to the terms of the principal's visa.

Subject to the Immigration and Nationality Act (INA), participants may be eligible for one-time repeat participation in the program upon the exchange visitor's valid application and after meeting any other applicable requirements. Although the principal position filled by the participant may remain a long-term one for the school, varying individual principals, including program participants, may serve in that role. Accordingly, the Department waives subsections (d)(3) and (i) of 22 CFR 62.26 with respect to this program.

Lee A. Satterfield,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2024–03346 Filed 2–16–24; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 12333]

Notice of Public Meeting in Preparation for International Maritime Organization Tenth Session of the Sub-Committee on Ship Systems and Equipment (SSE) Meeting

The Department of State will conduct a public meeting at 1:00 p.m. on Tuesday, February 27, 2024, 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 Systems and Equipment (SSE 10) to be held at IMO Headquarters in London, United Kingdom from Monday, March 4 to Friday, March 8, 2024.

Members of the public may participate up to the capacity of the teleconference phone line, which can handle 500 participants, and the teleconference line will be provided to those who RSVP. To RSVP, participants should contact the meeting coordinator, LT Jeffrey Bors by email at *Jeffrey.S.Bors@uscg.mil.LT* Bors will provide access information for virtual attendance.

The agenda items to be considered at SSE 10 include:

—Adoption of the agenda
—Decisions of other IMO bodies
—New requirements for ventilation of survival craft
—Development of design and prototype test requirements for the arrangements used in the operational testing of free-fall lifeboat release systems without launching the lifeboat
—Revision of SOLAS chapter III and the LSA Code
—Amendments to SOLAS chapter III and chapter IV of the LSA Code to require the carriage of self-righting or canopied reversible liferafts for new ships
—Development of amendments to paragraph 8.3.5 and annex 1 of the 1994 and 2000 HSC Codes
—Revision of the 2010 FTP Code to allow for new fire protection systems and materials
—Revision of the provisions for helicopter facilities in SOLAS and the MODU Code
—Development of amendments to SOLAS chapter II–2 and the FSS Code concerning detection and control of fires in cargo holds and on the cargo deck of containerships
—Validated model training courses
—Unified interpretation of provisions of IMO safety, security and environment-related conventions
—Development of provisions to consider prohibiting the use of fire-fighting foams containing fluorinated substances, in addition to PFOS, for fire-fighting on board ships
—Comprehensive review of the Requirements for maintenance, thorough examination, operational testing, overhaul and repair of lifeboats and rescue boats, launching appliances and release gear (resolution MSC.402(96)) to address challenges with their implementation
—Amendments to the LSA Code for thermal performance of immersion suits
—Evaluation of adequacy of fire protection, detection and extinction arrangements in vehicle, special category and ro-ro spaces in order to reduce the fire risk of ships carrying new energy vehicles
—Biennial status report and provisional agenda for SSE 11

—Election of Chair and Vice-Chair for 2025
—Any other business
—Report to the Maritime Safety Committee

Please note: The IMO may, on short notice, adjust the SSE 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, LT Jeffrey Bors, by email at *jeffrey.s.bors@uscg.mil* by February 23, 2024. Additional information regarding this and other IMO public meetings may be found at: *https://www.dco.uscg.mil/IMO.*

(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. 2024–03387 Filed 2–16–24; 8:45 am]

BILLING CODE 4710–09–P

SURFACE TRANSPORTATION BOARD

[Docket No. EP 558 (Sub-No. 27)]

Railroad Cost of Capital—2023

AGENCY: Surface Transportation Board.

ACTION: Notice.

SUMMARY: The Board is instituting a proceeding to determine the railroad industry's cost of capital for 2023. The decision solicits comments on the following issues: the railroads' 2023 current cost of debt capital, the railroads' 2023 current cost of preferred equity capital (if any), the railroads' 2023 cost of common equity capital, and the 2023 capital structure mix of the railroad industry on a market value basis.

DATES: Notices of intent to participate are due by April 2, 2024. Statements of the railroads are due by April 23, 2024. Statements of other interested persons are due by May 14, 2024. Rebuttal statements by the railroads are due by June 4, 2024.

ADDRESSES: Comments may be filed with the Board via e-filing on the Board's website.

FOR FURTHER INFORMATION CONTACT: Pedro Ramirez at (202) 245–0333. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245–0245.

SUPPLEMENTARY INFORMATION: The decision in this proceeding is posted at *www.stb.gov.*

Authority: 49 U.S.C. 10704(a).

Decided: February 13, 2024.

By the Board, Board Members Fuchs, Hedlund, Oberman, Primus, and Schultz.

Stefan Rice,

Clearance Clerk.

[FR Doc. 2024–03374 Filed 2–16–24; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Action on Proposed Interchange in Georgia, Interstate 285 (I–285) at Interstate 20 (I–20) Reconstruction Project, Cobb, Douglas, and Fulton Counties, Georgia

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: notice of limitations on claims for judicial review of action by FHWA and other Federal agencies.

SUMMARY: This notice announces actions taken by FHWA and other Federal agencies that are final. This final agency action relates to a proposed interchange reconstruction and widening project, the I–285 at I–20 Interchange Reconstruction Project. Along I–20, the proposed project begins at the Thornton Road interchange eastbound I–20 on-ramp and ends at the Hamilton E. Holmes interchange for a total length of approximately 6.5-miles. Along I–285, the proposed project begins just south of the Martin Luther King (MLK) Jr. Drive interchange and extends north to the Donald Lee (DL) Hollowell Parkway interchange for a total length of approximately 2.4-miles. The FHWA's Finding of No Significant Impact (FONSI) provides details on the Selected Alternative for the proposed interchange and will be used by Federal Agencies in subsequent proceedings, including decisions whether to grant licenses, permits, and approvals for the highway project.

DATES: By this notice, FHWA is advising the public of the final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before July 19, 2024. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For FHWA: Ms. Sabrina David, Division Administrator, Georgia Division, Federal Highway Administration, 75 Ted Turner Drive, Suite 1000, Atlanta, Georgia 30303; telephone (404) 562–3630; email: *Sabrina.David@dot.gov.* The FHWA's normal business hours are 8:00 a.m. to 5:00 p.m. (eastern time) Monday through Friday. For Georgia Department of Transportation (GDOT): Mr. Russell McMurray, Commissioner, Georgia Department of Transportation, 600 West Peachtree Street, 22nd Floor, Atlanta, Georgia 30308; telephone (404) 631–1990; email: *RMcMurray@dot.ga.gov.* The GDOT's normal business hours are 8:00 a.m. to 5:00 p.m. (eastern time) Monday through Friday.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FHWA has taken a final agency action by issuing a FONSI for the following new highway project in the State of Georgia:

The I–285 at I–20 Interchange Reconstruction Project located in Cobb, Douglas, and Fulton Counties, Georgia. The Selected Alternative will reconstruct the interchange to remove left hand exits and improve design speed, and also includes modification and/or replacement of existing bridges and ramps. An I–20 westbound collector-distributor (CD) system would be constructed from the interchange to Fulton Industrial Boulevard. Along I–20, the proposed project begins at the Thornton Road interchange eastbound I–20 on-ramp/acceleration lane (which is located at approximately the Factory Shoals Road overpass) and ends at the Hamilton E. Holmes interchange (approximate 6.5-mile length). Along I–285, the proposed project begins just south of the Martin Luther King (MLK) Jr. Drive interchange and extends north to the Donald Lee (DL) Hollowell Parkway interchange (approximate 2.4-mile length). The purpose of the project is listed below:

- Improve traffic flow within the I–285/I–20 West Interchange.
- Improve operations and safety along approximately 6.5 miles of I–20, from Factory Shoals Road to Hamilton E. Holmes Drive, and approximately 2.4 miles of I–285 from just south of the MLK Jr. Drive interchange to the DL Hollowell Parkway interchange.
- Accelerate project delivery through the Major Mobility Investment Program, which is advancing projects across the state to create additional capacity, improve freight movement, provide transportation improvements and efficiencies, enhance safety, and decrease travel times.

The FHWA's action, related actions by other Federal Agencies, and the laws under which such actions were taken, are described in the Environmental Assessment (EA) for the project, approved on November 8, 2022, the FONSI issued on February 14, 2024, and

other documents in the project file. The EA, FONSI and other project records are available by contacting FHWA or GDOT at the addresses listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. The EA and FONSI can also be reviewed and downloaded from the project website at *https://0013918-gdot.hub.arcgis.com.*

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. General: National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128].

2. Air: Clean Air Act [42 U.S.C. 7401–7671(q)].

3. Noise: Noise Control Act of 1972 [42 U.S.C. 4901–4918]; 23 CFR part 772.

4. Land: Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303].

5. Wildlife: Endangered Species Act (ESA) [16 U.S.C. 1531–1544 and Section 1536]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667d]; Migratory Bird Treaty Act [16 U.S.C. 703–712].

6. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–470(ll)]; Archeological and Historic Preservation Act [16 U.S.C. 469–469c]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].

7. Social and Economic: Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)].

8. Wetlands and Water Resources: Coastal Zone Management Act [16 U.S.C. 1451–1465]; Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601–4604]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)-300(j)(6)]; Wild and Scenic Rivers Act [16 U.S.C. 1271– 1287]; Flood Disaster Protection Act [42 U.S.C. 4001–4128].

9. Hazardous Materials: Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) [42 U.S.C. 9601–9675]; Superfund Amendments and Reauthorization Act of 1986 (SARA); Resource Conservation and Recovery Act (RCRA) [42 U.S.C. 6901–6992(k)].

10. Executive Orders: E.O. 14096 Revitalizing Our Nation's Commitment to Environmental Justice for All; E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13045 Protection of Children From Environmental Health Risks and Safety Risks; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Issued on: February 14, 2024.

Sabrina S. David,

Division Administrator, Federal Highway Administration, Atlanta, Georgia.

[FR Doc. 2024–03405 Filed 2–16–24; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2023–0185]

Commercial Driver's License: State of Hawaii; Application for Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: FMCSA announces its decision to grant an exemption to the State of Hawaii allowing the State to waive specific portions of the commercial driver's license (CDL) skills test for CDL applicants who take the skills test on the islands of Lanai and Molokai and issue these drivers a restricted CDL. The Agency grants this exemption because the islands of Lanai and Molokai do not have the highway infrastructure to support a demonstration of certain on-road safe driving skills required by the CDL skills test requirements. FMCSA concludes that granting the exemption, subject to the terms and conditions set forth below is likely to maintain a level of safety equivalent to or greater than the level of safety that would be maintained absent the exemption.

DATES: The exemption is effective from February 20, 2024 through February 20, 2026.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; (202) 366–2722; *richard.clemente@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services at (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, go to *www.regulations.gov,* insert the docket number ''FMCSA–2023–0185'' in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''View Related Comments.''

If you do not have access to the internet, you may view the docket by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from certain Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted and determines whether granting the exemption would likely maintain a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305(a)). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision from which the applicant will be exempt, the effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reason for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

III. Background

Current Regulatory Requirements

The safe on-road driving skills applicants must possess and demonstrate to obtain a CDL for a vehicle class are identified in 49 CFR 383.113(c). Under 49 CFR 383.113(c)(2) and (4), CDL applicants must demonstrate, respectively, the ability to signal appropriately when changing direction in traffic and to choose a safe gap for changing lanes, passing other vehicles, and crossing or entering traffic.

As prescribed in 49 CFR 383.153(a)(10)(ix), a State has the discretion to impose restrictions on a

CDL or create its own restrictions using additional codes for additional restrictions, as long as each such restriction code is fully explained on the front or back of the CDL document.

Applicant's Request

The State of Hawaii applied for an exemption from the requirements that a CDL applicant demonstrate the following safe on-road driving skills: the ability to signal appropriately when changing direction in traffic (49 CFR 383.113(c)(2)); and the ability to choose a safe gap for changing lanes, passing other vehicles, and crossing or entering traffic (49 CFR 383.113(c)(4). The applicant states that the islands of Lanai and Molokai do not have the highway infrastructure to support a demonstration of these safe on-road driving skills as required by 49 CFR 383.113(c)(2) and (4). The islands do not have at least two miles of a straight section of urban business street and at least two miles of an expressway or highway section with multiple lanes going in each direction to allow the ability to legally change lanes. The State of Hawaii proposed to establish a new CDL restriction ''R,'' limiting the CDL's validity to the islands of Lanai and Molokai only and would be applied to these drivers who pass a CDL skills test without demonstrating those two skills. The applicant stated that if it stops offering CDL road tests on both islands it will be a significant barrier for CDL applicants to meet all of the required skills test standards and obtain a CDL. Furthermore, there will be a negative economic impact on the communities' livelihood.

IV. Public Comments

On August 25, 2023, FMCSA published a notice of the State of Hawaii's application and requested public comment (88 FR 58434). The Agency received one comment that was not responsive to the request.

V. FMCSA Safety Analysis

The Agency believes allowing Hawaii to issue restricted CDLs to drivers operating a commercial motor vehicle (CMV) on the islands of Lanai and Molokai is likely to maintain a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemption (49 CFR 381.305(a)). The exemption applies only to CDL applicants taking the skills test on the islands of Lanai and Molokai and limits these drivers to operating a CMV on those two islands only.

FMCSA reviewed the information in the State's application and the exhibits submitted including aerial and map views of the testing routes. The information provided by the State supports the State's assertion that the islands of Lanai and Molokai lack the highway infrastructure to permit CDL applicants to demonstrate their ability to signal appropriately when changing direction in traffic, and the ability to choose a safe gap for changing lanes, passing other vehicles, and crossing or entering traffic. Therefore, CDL applicants who drive a CMV only on the islands of Lanai and Molokai do not need to demonstrate those skills to obtain their restricted CDL.

VI. FMCSA Decision

FMCSA has evaluated the State of Hawaii's application for exemption and exhibits and the public comment. Based on its analysis, FMCSA hereby grants Hawaii an exemption from 49 CFR 383.113(c)(2) and (4) for CDL applicants taking the CDL skills test on the islands of Lanai and Molokai and allowing Hawaii to issue restricted CDLs limiting these drivers to operating a CMV on the islands of Lanai and Molokai. Allowing the State of Hawaii to conduct an abbreviated safe on-road driving skills test and issue restricted CDLs permitting the driver to operate a CMV only on the islands of Lanai and Molokai where the roadways do not require drivers to demonstrate such skills will bypass the infrastructure barriers CDL applicants on these two islands experience while establishing safeguards to maintain an equivalent level of safety.

VII. Exemption Decision

A. Grant of Exemption

FMCSA grants an exemption from 49 CFR 383.113(c)(2) and (c)(4) for a period of two years subject to the terms and conditions of this decision.

B. Applicability

The State of Hawaii may issue restricted CDLs under this exemption only to drivers who take the CDL skills test on the islands of Lanai and Molokai.

C. Terms and Conditions

The State of Hawaii and drivers operating under this exemption are subject to the following terms and conditions:

1. The State of Hawaii may waive only the following portions of the CDL skills test, as set forth in 49 CFR 383.113(c), that cannot be performed due to infrastructure limitations on the identified islands:

a. ability to signal appropriately when changing direction in traffic (49 CFR 383.113(c)(2)); and

b. ability to choose a safe gap for changing lanes, passing other vehicles, and for crossing or entering traffic (49 CFR 383.113(c)(4)).

2. The State of Hawaii must comply with 49 CFR 383.133(b) and 383.135(a) of the knowledge tests standards for testing procedures and methods set forth in 49 CFR part 383, subpart H, and must continue to administer knowledge tests that fulfill the content requirements of subpart G.

3. Drivers applying for a CDL to be issued under this exemption must take the CDL skills test on either the island of Lanai or Molokai.

4. Drivers issued a restricted CDL under this exemption may operate a CMV only on the islands of Lanai and or Molokai. The State of Hawaii must establish a new state CDL restriction, ''R—Restriction'', with the following description printed on the back of the license ''Restricted to Lanai and Molokai''. These restrictive CDLs will not be valid for use on Kauai, Oahu, Maui, Hawaii island, the U.S. Mainland and anywhere else U.S. CDLs are valid for use.

5. The drivers must comply with all other applicable Federal Motor Carrier Safety Regulations (49 CFR part 350–399).

6. The State of Hawaii must include notice on a restricted CDL issued pursuant to this exemption of the geographical area(s) in which the CDL holder may operate a commercial motor vehicle in accordance with 49 CFR 383.153(a)(10)(ix).

D. Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation that conflicts with or is inconsistent with this exemption with respect to a person operating under the exemption.

E. Notification to FMCSA

The State of Hawaii must provide to FMCSA, upon request, a list of all drivers issued restricted CDLs under this exemption.

F. Termination

FMCSA does not believe that drivers covered by this exemption will experience any deterioration of their safety record. The Agency will, however, rescind the exemption if: (1) the State of Hawaii or drivers operating under the exemption fail to comply with the terms and conditions of the exemption; (2) the exemption results in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and

objective of 49 U.S.C. 31136(e) and 31315(b).

Sue Lawless,

Acting Deputy Administrator.

[FR Doc. 2024–03328 Filed 2–16–24; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0443; FMCSA–2014–0380; FMCSA–2021–0025]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions for three individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to continue to operate CMVs in interstate commerce.

DATES: The exemptions were applicable on January 10, 2024. The exemptions expire on January 10, 2026. Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates provided below.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, (202) 366–4001, *fmcsamedical@dot.gov.* Office hours are from 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number (FMCSA–2013–0443, FMCSA–2014–0380, or FMCSA–2021–0025) in the keyword box and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

B. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption request. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov.* As described in the system of records notice DOT/ALL 14 (Federal Docket Management System), which can be reviewed at *https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices,* the comments are searchable by the name of the submitter.

II. Background

On January 3, 2024, FMCSA published a notice announcing its decision to renew exemptions for three individuals from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) to operate a CMV in interstate commerce and requested comments from the public (89 FR 430). The public comment period ended on February 2, 2024, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(8).

The physical qualification standard for drivers regarding epilepsy found in § 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria [1] to assist medical examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce.

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Conclusion

Based on its evaluation of the three renewal exemption applications and comments received, FMCSA announces its decision to exempt the following drivers from the epilepsy and seizure disorders prohibition in § 391.41(b)(8).

As of January 3, 2024, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following three individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers (89 FR 430):

Phillip Halfmann (WI); Ronald Hartl (WI); and Benjamin Reineke (OH).

The drivers were included in docket number FMCSA–2013–0443, FMCSA–2014–0380, or FMCSA–2021–0025. Their exemptions were applicable as of January 10, 2024 and will expire on January 10, 2026.

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2024–03352 Filed 2–16–24; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2023–0256]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from 11 individuals for an

[1] These criteria may be found in Appendix A to Part 391—Medical Advisory Criteria, section H. *Epilepsy:* § 391.41(b)(8), paragraphs 3, 4, and 5, which is available on the internet at *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

exemption from the prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to control a commercial motor vehicle (CMV) to drive in interstate commerce. If granted, the exemptions would enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs in interstate commerce.

DATES: Comments must be received on or before March 21, 2024.

ADDRESSES: You may submit comments identified by the Federal Docket Management System Docket No. FMCSA–2023–0256 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov/,* insert the docket number (FMCSA–2023–0256) in the keyword box and click ''Search.'' Next, choose the only notice listed, and click on the ''Comment'' button. Follow the online instructions for submitting comments.
- *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, (202) 366–4001, *fmcsamedical@dot.gov.* Office hours are 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2023–0256), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *https://www.regulations.gov/docket/FMCSA-2023-0256.* Next, choose the only notice listed, click the ''Comment'' button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. FMCSA will consider all comments and material received during the comment period.

B. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number (FMCSA–2023–0256) in the keyword box and click ''Search.'' Next, choose the only notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

C. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption request. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov.* As described in the system of records notice DOT/ALL 14 (Federal Docket Management System), which can be reviewed at *https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices,* the comments are searchable by the name of the submitter.

II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statutes also allow the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The 11 individuals listed in this notice have requested an exemption from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding epilepsy found in § 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria [1] to assist medical examiners (MEs) in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce.

The criteria states that if an individual has had a sudden episode of a non-epileptic seizure or loss of consciousness of unknown cause that did not require anti-seizure medication, the decision whether that person's condition is likely to cause the loss of consciousness or loss of ability to control a CMV should be made on an individual basis by the ME in consultation with the treating physician. Before certification is considered, it is suggested that a 6-month waiting period elapse from the time of the episode. Following the waiting period, it is suggested that the individual have a complete neurological examination. If the results of the examination are negative and anti-seizure medication is not required, then the driver may be qualified.

In those individual cases where a driver has had a seizure or an episode of loss of consciousness that resulted from a known medical condition (*e.g.,* drug reaction, high temperature, acute infectious disease, dehydration, or acute metabolic disturbance), certification should be deferred until the driver has

[1] These criteria may be found in Appendix A to Part 391—Medical Advisory Criteria, section H. *Epilepsy:* § 391.41(b)(8), paragraphs 3, 4, and 5, which is available on the internet at *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

recovered fully from that condition, has no existing residual complications, and is not taking anti-seizure medication.

Drivers who have a history of epilepsy/seizures, off anti-seizure medication, and seizure-free for 10 years, may be qualified to operate a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5-year period or more.

As a result of MEs misinterpreting advisory criteria as regulation, numerous drivers have been prohibited from operating a CMV in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified ME based on the physical qualification standards and medical best practices.

On January 15, 2013, FMCSA announced in a notice of final disposition titled, ''Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders,'' (78 FR 3069), its decision to grant requests from 22 individuals for exemptions from the regulatory requirement that interstate CMV drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' Since that time, the Agency has published additional notices granting requests from individuals for exemptions from the regulatory requirement regarding epilepsy found in § 391.41(b)(8).

To be considered for an exemption from the epilepsy and seizure disorders prohibition in § 391.41(b)(8), applicants must meet the criteria in the 2007 recommendations of the Agency's Medical Expert Panel (78 FR 3069).

III. Qualifications of Applicants

Regina Botros

Regina Botros is a 34-year-old class A commercial driver's license (CDL) holder in North Carolina. They had a single provoked seizure and have been seizure free since 2016. They have never taken anti-seizure medication. Their physician states that they are supportive of Regina Botros receiving an exemption.

James Crady

James Crady is a 48-year-old class D license holder in Ohio. They have a history of seizure disorder and have been seizure free since 2012. They take anti-seizure medication with the dosage and frequency remaining the same since 2012. Their physician states that they are supportive of James Crady receiving an exemption.

Monte Fischer

Monte Fischer is a 47-year-old class D license holder in North Dakota. They have a history of localization epilepsy and have been seizure free since 2000. They take anti-seizure medication with the dosage and frequency remaining the same since 2020. Their physician states that they are supportive of Monte Fischer receiving an exemption.

Anthony Fraulo

Anthony Fraulo is a 33-year-old class D license holder in Connecticut. They have a history of an idiopathic generalized seizures and have been seizure free since 2010. They take anti-seizure medication with the dosage and frequency remaining the same since February 2012. Their physician states that they are supportive of Anthony Fraulo receiving an exemption.

Ernestina Garcia

Ernestina Garcia is a 55-year-old class A CDL holder in California. They have a history of epilepsy and have been seizure free since 1983. They take anti-seizure medication with the dosage and frequency remaining the same since 1983. Their physician states that they are supportive of Ernestina Garcia receiving an exemption.

Anthony Hoffman

Anthony Hoffman is a 39-year-old class D license holder in Minnesota. They have a history of seizure disorder and have been seizure free since May 2007. They take anti-seizure medication with the dosage and frequency remaining the same since May 2016. Their physician states that they are supportive of Anthony Hoffman receiving an exemption.

Anthony Martin

Anthony Martin is a 55-year-old class A CDL holder in Virginia. They have a history of seizure disorder and have been seizure free for more than 40 years. They take anti-seizure medication with the dosage and frequency remaining the same since 2013. Their physician states that they are supportive of Anthony Martin receiving an exemption.

Levi Read

Levi Read is a 31-year-old class A CDL holder in Maine. They have a history of seizure disorder and have been seizure free since 2015. They take anti-seizure medication with the dosage and frequency remaining the same since 2015. Their physician states that they are supportive of Levi Read receiving an exemption.

Mark Shirkey

Mark Shirkey is a 47-year-old class A CDL holder in Indiana. They have a history of seizure and have been seizure free for over 20 years. They take anti-seizure medication with the dosage and frequency remaining the same since July 2020. Their physician states that they are supportive of Mark Shirkey receiving an exemption.

Dustin Sumner

Dustin Sumner is a 33-year-old class DA CDL holder in Kentucky. They have a history of a single provoked seizure and have been seizure free since July 22, 2014. They have never taken anti-seizure medication. Their physician states that they are supportive of Dustin Sumner receiving an exemption.

Jaycee VanHouten

Jaycee VanHouten is a 52-year-old class R license holder in Colorado. They have a history of generalized epilepsy and have been seizure free since 2014. They take anti-seizure medication with the dosage and frequency remaining the same since 2014. Their physician states that they are supportive of Jaycee VanHouten receiving an exemption.

IV. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b), FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated under the **DATES** section of the notice.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2024–03354 Filed 2–16–24; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Taxpayer Advocacy Panel Committee; Charter Renewal

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: The Charter for the Taxpayer Advocacy Panel Committee (TAP), has been renewed for a two-year period beginning February 12, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Shawn Collins, Taxpayer Advocacy Panel Acting Director, at

TaxpayerAdvocacyPanel@irs.gov. For questions about TAP, call the TAP toll-free number, 1–888–912–1227.

SUPPLEMENTARY INFORMATION: Notice is hereby given under section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), and with the approval of the Secretary of the Treasury to announce the charter renewal for the Taxpayer Advocacy Panel Committee (TAP). The TAP purpose is to provide a taxpayer perspective to the Internal Revenue Service (IRS) on critical tax administrative programs. The TAP shall provide listening opportunities for taxpayers to independently identify suggestions or comments to improve IRS customer service through grass roots outreach efforts, and have direct access to elevate improvement recommendations to the appropriate operating divisions. The TAP shall also serve as a focus group to provide suggestions and/or recommendations directly to IRS management on IRS strategic initiatives.

Dated: February 13, 2024.

Shawn Collins,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2024–03332 Filed 2–16–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2024–2

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning, Miscellaneous Changes Under the SECURE 2.0 Act of 2022.

DATES: Written comments should be received on or before April 22, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Include ''OMB Number 1545–2317—Miscellaneous Changes Under the SECURE 2.0 Act of 2022'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Martha R. Brinson, at (202) 317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Miscellaneous Changes Under the SECURE 2.0 Act of 2022.

OMB Number: 1545–2317.

Notice Number: 2024–2.

Abstract: Section 72(t)(1) generally imposes a 10 percent additional tax on any distribution from a qualified retirement plan within the meaning of section 4974(c), unless the distribution qualifies for one of the exceptions listed in section 72(t)(2). Section 72(t)(2)(L)(iii) provides that, in order to be considered a terminally ill individual, an employee must furnish sufficient evidence to the plan administrator. This information will be used by a plan administrator to determine whether an individual is eligible for a terminal illness distribution and thus eligible for the exception to the 10 percent additional tax under section 72(t)(2)(L).

Current Actions: There are no changes to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and Households.

Estimated Number of Respondents: 500.

Estimated Time per Respondent: 15 mins.

Estimated Total Annual Burden Hours: 125.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments will be of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 12, 2024.

Martha R. Brinson,

Tax Analyst.

[FR Doc. 2024–03367 Filed 2–16–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Collection Activities; Requesting Comments on Certified Professional Employer Organization (CPEO) Program

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning CPEO online system Identity Verification Application, Responsible Individual Personal Attestation (RIPA), Certified Professional Employer Organization Application, Form 14751, Form 8973, and TD 9860.

DATES: Written comments should be received on or before April 22, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Include ''OMB Control No. 1545–2266'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Jon Callahan, (737) 800–7639, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through email at *jon.r.callahan@irs.gov.*

SUPPLEMENTARY INFORMATION: The IRS is currently seeking comments concerning

the following information collection tools, reporting, and record-keeping requirements:

Title: Certified Professional Employer Organization (CPEO) Forms.

OMB Number: 1545–2266.

Form Name/Number: Identity Verification Application, Responsible Individual Personal Attestation (RIPA), Certified Professional Employer Organization Application, Form 14751, and Form 8973.

Regulation Project Number: TD 9860.

Abstract: Section 206 of the Achieving a Better Life Experience (ABLE) Act passed Dec. 19, 2014) created the Certified Professional Employer Organization (CPEO) designation. The application, attestation and supporting information is used by the IRS to qualify professional employer organizations to become and remain a Certified Professional Employer Organization, which entitles them to certain tax benefits. This certification is renewed annually and the CPEO will submit annual and quarterly financial statements in addition to supporting documentation. Responsible individuals will submit annual attestation forms and fingerprint cards. The Identity Verification Application, Responsible Individual Personal Attestation (RIPA), Certified Professional Employer Organization Application, Form 14751, Certified Professional Employer Organization Surety Bond, Form 8973, Certified Professional Employer Organization/Customer Reporting Agreement, and TD 9860, Certified Professional Employer Organizations, will only be used by program applicants and related responsible individuals.

Current Actions: There are changes to the existing collection. Form 14737 and Form 14737–A have been replaced by the CPEO online system.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations & Individuals.

Identity Verification Application:

Estimated Number of Respondents: 565.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 5,141.

Responsible Individual Personal Attestation (RIPA):

Estimated Number of Respondents: 565.

Estimated Time per Respondent: 40 hours.

Estimated Total Annual Burden Hours: 22,600.

Certified Professional Employer Organization Application:

Estimated Number of Respondents: 120.

Estimated Time per Respondent: 77 hours, 45 minutes.

Estimated Total Annual Burden Hours: 9,330.

Form 14751:

Estimated Number of Respondents: 170.

Estimated Time per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 340.

Form 8973:

Estimated Number of Respondents: 41,350.

Estimated Time per Respondent: 1.5 hours.

Estimated Total Annual Burden Hours: 62,025.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 14, 2024.

Jon R. Callahan,

Senior Tax Analyst.

[FR Doc. 2024–03362 Filed 2–16–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0209]

Agency Information Collection Activity: Application for Work Study Allowance, Student Work Study Agreement-Advance Payment, Extended Student Work Study Agreement, Student Work Study Agreement

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before April 22, 2024.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0209'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20420, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0209'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary

for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 U.S.C. 3485; 38 CFR 21.4145.

Title: Application for Work Study Allowance [VA Form 22–8691]; Student Work Study Agreement-Advance Payment [VA Form 22–8692]; Extended Student Work Study Agreement [VA Form 22–8692a]; Student Work Study Agreement [VA Form 22–8692b].

OMB Control Number: 2900–0209.

Type of Review: Revision of a currently approved collection.

Abstract: VA uses the information collected to determine the individual's eligibility for the work-study allowance, the number of hours the individual will work, the amount payable, whether the individual desires an advance payment, and whether the individual wants to extend the work-study contract.

Affected Public: Individuals and Households.

Estimated Annual Burden: 7,542 hours.

Estimated Average Burden Time per Respondent: 23 minutes [15 min. VAF 22–8691]; [5 min. VAFs 22–8692 and 22–8692b]; [3 min. VAF 22–8692a].

Frequency of Response: Annually.

Estimated Number of Respondents: 75,451.

By direction of the Secretary.

Dorothy Glasgow,

VA PRA Clearance Officer, (Alt), Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2024–03350 Filed 2–16–24; 8:45 am]

BILLING CODE 8320–01–P

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